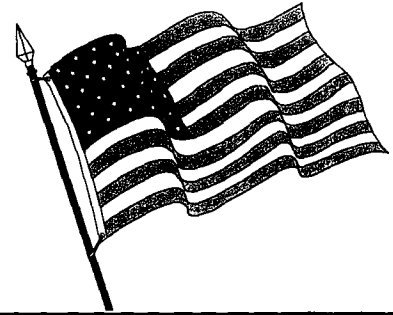


# **Law Enforcement Administrators Coordinating Council**

Yolo County



## **Yolo County Protocol for Response to Officer-Involved Fatal Incidents**



### **Chiefs of Police**

**Dan Bellini**  
City of Woodland

**Darren Pytel**  
City of Davis

**Joseph Kreins**  
Interim City of Winters

**Thomas McDonald**  
City of West Sacramento

**Matthew Carmichael**  
UC Davis

### **Yolo County**

**Jeff Reisig**  
District Attorney

**Rob Strange**  
Chief Investigator  
District Attorney's Office

**Brent Cardall**  
Chief Probation Officer

**Ed Prieto**  
Sheriff / Coroner

### **Highway Patrol**

**Chuck King**  
Captain/Area Commander  
Woodland CHP

## **1. PURPOSE**

To establish a uniform protocol for the investigation by of Officer-Involved Fatal Incidents (OIFI) by Outside Agency Assistance.

This protocol recognizes the need for independent review of uses of force by sworn peace officers employed in Yolo County, especially when the use of force results in the death or serious injury of any involved party. It considers available investigative resources within Yolo County while maintaining a best-practices approach of having an independent, outside agency investigate the major force application of another.

## **2. APPLICATION**

This cooperative agreement establishes a reliance on designated resources and guidelines for outside agency assistance when this protocol is activated.

Each individual agency retains the discretion to adopt, reject, or modify any portion of these guidelines in accordance with existing rules and regulations of that agency.

Nothing contained herein is intended to increase, modify, or in any way affect the current legal standards, nor shall any deviation from these guidelines be considered a breach of any legal standard.

# **Law Enforcement Administrators Coordinating Council**

Yolo County

## **3. DEFINITIONS**

1. Officer-Involved Fatal Incident: Any force incident resulting in the death or serious injury of any party involved
2. Serious Injury: For the purpose of this protocol, serious injury includes any gunshot wound and any injury that, upon initial assessment, is likely to lead to the death, paralysis or other permanent change in physical capability.
3. Jurisdictional Agency: The law enforcement agency with primary jurisdiction over the physical location of an incident. If an incident spans multiple jurisdiction areas, the Jurisdictional Agency will be determined as the location wherein the actual OIFI took place.
4. Primary Agency: The employing agency of the officer(s) involved in the actual OIFI force application and/or employing the officers that suffer serious injury or death as the result of an OIFI.
5. Involved Agency: Any agency involved in the OIFI, whether or not its officers were involved in the actual force application that led to the OIFI.
6. Uninvolved Agency: A local law enforcement agency that had no involvement in the OIFI and that has the capacity to conduct an independent investigation related to an OIFI.

## **4. PROTOCOL**

Since OIFIs generally involve multiple considerations, it is recognized that several separate, but parallel and often overlapping investigations may be conducted.

### **A. Jurisdiction**

The agency (hereinafter "jurisdictional agency"), having original jurisdiction over the location of the OIFI should have primary authority over the investigation. While cooperation among involved agencies is critical, control of the investigation should remain with the agency with the jurisdictional agency unless voluntarily relinquished in whole or in part.

1. Acknowledging that the Jurisdictional and Primary agencies may not always be the same, once the area has been secured to the extent that there no longer appears to be a threat to immediate safety, a supervisor from the primary agency should attempt to obtain a brief overview of the situation from any uninvolved officer. In the event there are no uninvolved officers present during the actual event leading to the use of force or death, the supervisor should attempt to obtain a brief overview from one involved officer.

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Yolo County

If there is an immediate need for public safety information to secure the scene and pursue suspects, such as outstanding suspect information, number and direction of shots fired, parameters of the incident scene, identity of known witnesses, and similar information, a supervisor from the primary agency may administratively order any officer to immediately provide such public safety information.

Absent a voluntary statement from any involved officer(s), the initial scene supervisor should not attempt to compel or order an officer to provide any information, except for pertinent public safety information as specified above.

2. In accordance with primary and jurisdictional agency procedures, internal and supplemental resources should be requested as soon as practicable. These primary and jurisdictional agency resources should work in coordination with each other and/or those summoned from an uninvolved agency to lead the investigation of involved officer(s) actions.
  - a. The primary agency should request an immediate investigation by an uninvolved agency to determine the criminal culpability, if any, of those law enforcement officers involved in the OIFI.
  - b. The primary agency will conduct a parallel criminal investigation of any suspects involved in related crimes for the purpose of submitting a report to the District Attorney to review for criminal charging or issuance of arrest warrant(s), and/or to complete the criminal investigation initiated by their officer(s).
  - c. Each agency with officer(s) involved shall be responsible for its own internal administrative investigation of the conduct of its own officer(s).
  - d. Additional resources such as psychological counselors and civil liability response teams may be requested by any involved agency and should be accommodated to the extent reasonably practicable.

# **Law Enforcement Administrators Coordinating Council**

Yolo County

B. Uninvolved Agency Investigation.

An uninvolved agency will respond, by request of the Primary or jurisdictional Agency head or their designee, to the scene of any police OIFI. The uninvolved agency will conduct an independent criminal investigation of the involved officer(s) use of force and prepare investigative reports to submit to the District Attorney for review. This review could lead to requests for further investigative work or could be sufficient for legal review of the OIFI.

1. It is not the duty of nor should the uninvolved agency be expected to conduct the requesting agency's internal administrative or potential civil liability investigations.
2. During the investigation of the Involved Officer(s) conduct, the Uninvolved Agency will honor the officer's legal rights pursuant to California Government Code 3300-3313 (Public Safety Officers Procedural Bill of Rights).
  - a. It is recognized that there are times when officer(s) legal counsel will advise against making a voluntary statement. Instead, customarily, the police officer's legal counsel will offer an involuntary statement that is *compelled* by virtue of an administrative order from a superior officer from the involved officer's employing agency.

Any compelled statement will be obtained exclusively by primary agency administrative investigators.

- b. The primary agency shall cooperate fully with the uninvolved agency charged with investigating the subject incident, to include providing copies of all investigative reports and all evidence; including but not limited to, car and body camera footage, involved uniforms, police equipment, crime scene video and photos.

The primary agency will NOT furnish any administrative reports.

3. Upon conclusion of the investigation, those agencies (primary agency) whose officer(s) were directly involved in the OIFI will be given a complete copy of the uninvolved agency's investigation file.
  - a. The Uninvolved Agency will give timely notice to each primary agency prior to the release of any information from the OIFI investigation file to other than involved law enforcement agencies. Each agency will then have the

# **Law Enforcement Administrators Coordinating Council**

Yolo County

opportunity to raise appropriate objections and, if necessary, litigate for the protection of privileged information.

- b. Prior to any public dissemination, the District Attorney will advise the involved agency of the intent to file any criminal charges.

C. Departmental Internal/Administrative Investigations.

Each involved agency will be individually responsible for conducting its own

internal administrative investigation to evaluate its officer(s) conduct with respect to departmental policy.

D. Release of Involved Officer(s) Names

It will be the decision and duty of the Primary Agency to determine if and when they will release the name of the officer(s) involved. If the District Attorney determines that criminal charges will be filed against an involved officer(s), those names will be available through public record.

E. Role of the District Attorney

During an OIFI Investigation the District Attorney will:

1. Assist and advise the incident investigators regarding the various legal issues that may arise, including but not limited to search and seizure, taking of statements, identification procedures, arrests, elements of crimes, immunity and voluntariness.
2. Monitor the police investigation.
3. Provide investigative process and procedure consultation
4. The District Attorney reserves the right to conduct a criminal investigation of the involved officer(s) actions. The District Attorney will notify the primary agency if an independent investigation is being conducted, except if such notification would compromise the integrity of the independent investigation.
  - a. A District Attorney Investigator assigned to participate as an incident investigator assisting or teamed with a primary agency incident investigator will not be a member or participant of an independent District Attorney investigation unless the primary agency is notified of such a dual role.
5. Ultimately determine if criminal charges will be filed.

# **Law Enforcement Administrators Coordinating Council**

## Yolo County

6. If the District Attorney's Office is a primary agency due to a DA Investigator becoming directly involved in an OIFI, the role of the District Attorney should be carried out by requesting the assistance of the Attorney General. If the Attorney General declines to participate, the uninvolved agency leading the investigation should seek assistance from another District Attorney's office.

### F. Notifications

Upon identifying an incident as being an OIFI, the Jurisdictional Agency shall make the following notifications as promptly as possible after life-saving and scene safety considerations are satisfied:

1. Intra-department, as required by that agency's procedures;
2. Primary Agency (If different from the Jurisdictional Agency); and
3. District Attorney's Chief Investigator or designee (via Direct call or County Communications).

The Primary Agency shall make the following confirmations and notifications as promptly as possible:

1. Confirm that the District Attorney's Chief Investigator, or designee, has been notified; and
2. Upon confirmation of a fatality, that notification to the Coroner's Office has been made.

### G. News Media Relations

A representative of the Primary Agency is in the best position to comment about the facts of the case and the progress of the investigation. When multiple agencies are involved or have knowledge of an OIFI, the following information release guidelines should be followed:

1. The Primary Agency will assign a particular individual to be the sole contact with the news media to manage the release of information and to minimize interruptions to incident investigators. If this is not feasible, a particular job assignment (e.g., Watch Commander) should be designated.
2. If incident investigators determine that the release of a specific piece of information would materially jeopardize the investigation, they shall notify those agencies possessing that knowledge of the hazards of releasing it.

# **Law Enforcement Administrators Coordinating Council**

Yolo County

(1)The prosecutor, based on a complete investigation and a thorough consideration of all pertinent facts readily available, is satisfied that the evidence proves that the accused is guilty of the crime to be charged;

(2)There is legally sufficient, admissible evidence of a corpus delicti;

(3)There is legally sufficient, admissible evidence of the accused's identity as the perpetrator of the crime charged; and

(4)The prosecutor has considered the probability of conviction by an objective fact finder and has determined that the admissible evidence is of such convincing force that it would warrant conviction of the crime charged by a reasonable and objective fact finder after hearing all the evidence available to the prosecutor at the time of charging and after considering the most plausible and reasonably foreseeable defenses."

If no charges are filed, the District Attorney will issue a succinct closing report summarizing the results of the investigation and analysis of the evidence. This report will address the question of whether or not there is proof beyond a reasonable doubt that an officer, deputy, or any other person involved in an OIFI committed a crime.

It is not the purpose of the District Attorney's review, investigation or report to determine if any officer or deputy violated police policy or procedure, or committed any act that would be subject to civil sanctions.

The District Attorney's Office will make every effort to issue a closing report containing its findings and conclusion within 90 days from receipt of the completed investigative package. This report shall be sent to the primary police agencies, the decedent's family and then released to the public.

# **Law Enforcement Administrators Coordinating Council**

Yolo County

3. Agencies and individuals that are not well informed and intimately involved with the investigation's progress and results should not make statements to the press. As in all other instances, care must be taken to insure that intentionally misleading, erroneous or false statements are not made.
4. The interest of the public's right to know what occurred must be balanced with sensibility and requirements of the investigation and with the right of the accused to receive a fair trial.

Other agencies may also be contacted by the news media for information about the Incident, including:

## The Jurisdictional Agency

If the jurisdictional agency is different than the primary agency, the jurisdictional agency should refer the media to the primary agency media point of contact. They can confirm the location and time of the incident, but should defer all other questions to the primary agency point of contact.

## The District Attorney

1. The District Attorney will not disseminate any of the following information:
  - a. That an uncharged individual is "under investigation."
  - b. An Involved Officer's statement, confession or refusal to give a statement.
  - c. The subject of any gag order.
  - d. The prior criminal history of any Involved party, unless it is part of the criminal pleading or crime under investigation.
  - e. The result of any examinations.
  - f. The pendency of a search warrant.
  - g. Any statement that has a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.
2. In cases where a criminal complaint is filed, the judicial record, such as a probable cause declaration, or preliminary hearing is open to the public. Additionally, the District Attorney may disseminate the following:
  - a. Name of defendant.
  - b. Area of residence.
  - c. Occupation.
  - d. Physical description.
  - e. Age.



# Law Enforcement Administrators Coordinating Council

Yolo County

- f. Sex.
- g. Time, date and location of arrest.
- h. Factual circumstances of the crime.
- i. Amount of bail.
- j. Location held.
- k. All charges including warrants.
- l. Parole or probation holds.
- m. Schedule and explanation of the judicial process.
- n. Penalty range.

## The Coroner's Office

Information obtained from the incident investigators or from the Involved Agencies will not be released by the Coroner's Office without prior clearance from those agencies. Release of information will generally be limited to the following:

1. Autopsy findings, including the condition of the deceased, the cause of death, and toxicology test results (after the involved agencies have received this information).

The Coroner's Office will not release any information to the media where there is a pending criminal prosecution.

2. The general role of the Coroner's Office in the investigation of any death.

## H. FINAL ACTION

All reasonable efforts should be made for the Officer-Involved Incident Investigation to be completed and all reports submitted to the Office of the District Attorney within 120 days of the incident if possible and absent unusual circumstances.

At the conclusion of the investigation, the Office of the District Attorney will review and analyze all the evidence to determine whether or not the involved officer(s) will be charged with any crimes.

The crime charging standards are the same for civilians and peace officers. The District Attorney's policy regarding crime charging is as follows:

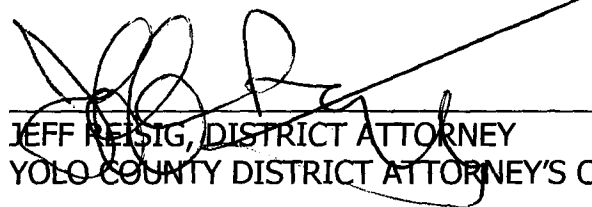
"The prosecutor should charge only if the following four basic requirements are satisfied:

**Law Enforcement Administrators Coordinating Council**

Yolo County

5. **ADOPTION**

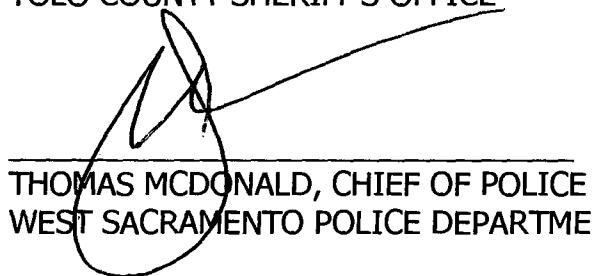
The operating protocol contained herein was officially adopted by the Yolo County Law Enforcement Administrator Coordinating Council as reflected by the signature of the respective Yolo County law enforcement agency heads.

  
JEFF REISING, DISTRICT ATTORNEY  
YOLO COUNTY DISTRICT ATTORNEY'S OFFICE

DATE: 2/18/16

  
E.G. PRIETO, SHERIFF/CORONER  
YOLO COUNTY SHERIFF'S OFFICE


DATE: 2/18/16

  
THOMAS MCDONALD, CHIEF OF POLICE  
WEST SACRAMENTO POLICE DEPARTMENT

DATE: 2-18-16

  
DARREN PYTEL, CHIEF OF POLICE  
DAVIS POLICE DEPARTMENT

DATE: 2-18-16

  
DAN BELLINI, CHIEF OF POLICE  
WOODLAND POLICE DEPARTMENT

DATE: 2/18/16

  
JOSEPH KREINS, INTERIM CHIEF OF POLICE  
WINTERS POLICE DEPARTMENT

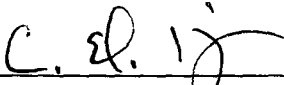
DATE: 2/18/16

  
MATT CARMICHAEL, CHIEF OF POLICE  
UNIVERSITY OF CALIFORNIA DAVIS POLICE DEPARTMENT

DATE: 2/18/16

**Law Enforcement Administrators Coordinating Council**

Yolo County



CHUCK KING, CAPTAIN  
WOODLAND STATION COMMANDER  
CALIFORNIA HIGHWAY PATROL

DATE: 2-18-16



BRENT CARDALL  
CHIEF PROBATION OFFICER

DATE: 2-18-16