

ADDENDA No. 1

To the

MEMORANDUM OF UNDERSTANDING

BETWEEN

The Law Enforcement Agencies of Yolo County

Yolo County Protocol for Response to Officer Involved Critical Incidents





- I. In May, 2020, Yolo County Law Enforcement agencies entered into a Memorandum of Understanding (MOU) for the purpose of establishing uniform procedures for the investigation of Officer Involved Critical Incidents.
- II. On June 24, 2021, the California Department of Justice issued Information Bulletin No. 2021-DLE-03. This bulletin outlines the implementation of AB 1506 whereas the Department of Justice is required to investigate "incidents of an officer-involved shooting resulting in the death of an unarmed civilian." (Gov. Code, §12525.3, subd. (b)(1).) This law became effective July 1, 2021.
- III. The parties now mutually agree to amend the MOU as follows:

In critical incidents as outlined under AB 1506 and California Department of Justice Information Bulletin No. 2021-DLE-03, the California Department of Justice is responsible for the investigation. The Yolo County District Attorney's Office personnel will not respond, investigate, consult, or review incidents as previously outlined by the MOU, unless specifically directed to do so by the Attorney General.

In the event of an officer involved shooting resulting in death of an unarmed civilian, as outlined in the Information Bulletin 2021-DLE-03 (attached), Agencies will contact the California Department of Justice Division of Law Enforcement in place of the District Attorney's Office.

Agreed and Accepted:


District Attorney
Yolo County District Attorney's Office


Tom Lopez, Sheriff
Yolo County Sheriff's Office


Robert Strange, Chief of Police
West Sacramento Police Department


Darren Pytel, Chief of Police
Davis Police Department


Darrek Kaff, Chief of Police
Woodland Police Department


John Miller, Chief of Police
Winters Police Department


Joseph Farrow, Chief of Police
University of California Davis Police Department


Ivan Tien, Captain
Woodland Station Commander
California Highway Patrol


Dan Fruchtenicht, Chief Probation Officer
Yolo County Probation

8/20/21
Date

8/26/21
Date

08/23/2021
Date

8-23-21
Date


8/23/2021
Date

9/10/21
Date

8-26-21
Date

9/2/2021
Date

9/2/21
Date

<div>California Department of Justice DIVISION OF LAW ENFORCEMENT John D. Marsh, Acting Chief</div> 		INFORMATION BULLETIN	
<i>Subject:</i> Assembly Bill (AB) 1506 Definitions and Law Enforcement Agency's Notification Responsibility	<i>No.</i> 2021-DLE-03	<i>Contact for information:</i> John D. Marsh, Acting Chief Division of Law Enforcement (916) 210-6300	
	<i>Date:</i> 6/24/2021		

TO: ALL DISTRICT ATTORNEYS, CHIEFS OF POLICE, SHERIFFS, AND STATE LAW ENFORCEMENT AGENCIES

Effective July 1, 2021, pursuant to AB 1506, the Department of Justice (DOJ) is required to investigate “incidents of an officer-involved shooting resulting in the death of an unarmed civilian.” (Gov. Code, § 12525.3, subd. (b)(1).) The following is DOJ’s understanding of the terms used in this statute, and is to be used as guidance for all law enforcement partners in determining whether a case falls within the ambit of AB 1506. These definitions are meant to apply *only* in the context of AB 1506, and these terms may have different meanings in other contexts or in different statutes.

Notwithstanding these definitions, DOJ may elect to assume jurisdiction in cases where jurisdiction is unclear, or based on other extenuating circumstances, as determined by the Attorney General. (See Cal. Const., art V, § 13 [Attorney General is “chief law officer of the State” and has a duty “to see that the laws of the State are uniformly and adequately enforced”].)

1. “Officer-involved”

A shooting is “officer-involved” if the death to the unarmed civilian is caused by a California peace officer, within the meaning of Penal Code section 830, acting under color of authority. All shootings committed by officers while on duty are officer-involved shootings. Shootings committed by officers while off-duty are considered officer-involved shootings only if the officer is acting under color of authority.

Officers are acting under “color of authority” when they are performing an act that is made possible only because they are clothed with the authority of law, or when they are acting under pretense of law. Conversely, officers are not acting under “color of authority” when they commit private acts in furtherance of personal pursuits. Shootings by correctional officers as defined in Penal Code section 830.55 are excluded.

2. “Shooting”

A “shooting” is the discharge of a metal projectile by a firearm. A “firearm” is a “device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion.” (Pen. Code, § 16520.) A “shooting” does not include incidents involving

the use of electronic control devices, stun guns, BB, pellet, air, gas-powered guns, or weapons that discharge rubber bullets or beanbags.

3. “Unarmed civilian”

An “unarmed civilian” is “anyone who is not in possession of a deadly weapon.” (Gov. Code, § 12525.3, subd. (a)(2).)

4. “Possession”

A civilian is in “possession” if the weapon is under the civilian’s dominion and control at the time of the shooting. Possession usually requires that the weapon is available for use. Where a civilian attempts to take control of an officer’s firearm, the civilian is not in possession unless the officer loses control of the firearm.

5. “Deadly weapon”

“‘Deadly weapon’ includes, but is not limited to, any loaded weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged, or a switchblade knife, pilum, ballistic knife, metal knuckle knife, dagger, billy, blackjack, plastic knuckles, or metal knuckles.” (Gov. Code, § 12525.3, subd. (a)(1).) All firearms, and BB/pellet guns, even if unloaded or inoperable, are deadly weapons.

Objects that have a legitimate non-weapon purposes are considered deadly weapons only when, based on all the circumstances, they are actually being used in a manner likely to produce death or great bodily injury. The following are examples of objects that have been considered a deadly weapon when used in that manner: knives, box cutters, screwdrivers, bottles, chains, automobiles, rocks, razor blades, and iron bars.

Replica firearms are not considered deadly weapons unless they are used in some particular manner likely to produce death or great bodily injury (e.g., as a bludgeon).

6. “Death”

Death occurs when “[a]n individual ... has sustained either (1) irreversible cessation of circulatory and respiratory functions, or (2) irreversible cessation of all functions of the entire brain, including the brain stem[.]” (Health & Saf. Code, § 7180.) DOJ may assume responsibility for cases where death appears to be imminent.

Law Enforcement Agency’s (LEA) Notification Responsibility

Effective July 1, 2021, immediately notify the DOJ when the LEA has an incident of an officer-involved shooting resulting in the death of an unarmed civilian. When situations arise and it is undetermined if the civilian was unarmed, a notification to DOJ is still requested. The Los Angeles Regional Criminal Information Clearinghouse (LA CLEAR) will be the central point of contact for all officer-involved shooting incident notifications: **(800) 522-5327**.