

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 other action of a sworn officer, including traffic collisions.

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 Santa Monica Police Department is to ensure that officer-involved shootings and deaths are investigated in a thorough, fair, and impartial manner.

305.3 TYPES OF INVESTIGATIONS

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

- A criminal investigation of the incident by the agency having jurisdiction where the incident occurred. This Department may relinquish its criminal investigation to an outside agency with the approval of the Chief of Police, or designee.
- A criminal investigation of the involved officer's actions conducted by an outside agency.
- An administrative investigation conducted by the involved officer's agency to determine if there were any violations of Department policy.

305.4 CONTROL OF INVESTIGATIONS (JURISDICTION)

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.

305.4.1 SANTA MONICA POLICE OFFICER WITHIN THIS JURISDICTION

The Santa Monica Police Department is responsible for the criminal investigation of the suspect's actions and the officer's actions, and a comprehensive administrative investigation. This Police Department is also responsible for conducting a comprehensive administrative investigation. The administrative investigation will address any violations of Department policy, identified training issues, or other factors.

The criminal investigation of the officer-involved shooting conducted by the District Attorney's Office will address any potential criminality on the part of the involved officer(s).

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305.4.2 SANTA MONICA POLICE OFFICER IN ANOTHER JURISDICTION

The agency where the incident occurred has criminal jurisdiction and is responsible for the criminal investigation of the incident. The agency may relinquish its criminal investigation of the suspect(s) to the Santa Monica Police Department or another agency. The Santa Monica Police Department is responsible for conducting the administrative investigation of the involved officer(s) and will complete the investigation in a timely matter.

305.4.3 ALLIED AGENCY'S OFFICER WITHIN THIS JURISDICTION

The Santa Monica Police Department is responsible for the criminal investigation of the suspect's and officer's actions. The Santa Monica Police Department may relinquish its criminal investigation of the officer to his/her employing agency. The criminal investigation of the officer-involved shooting will also be conducted by the District Attorney's Office. The officer's employing agency will be responsible for any civil and/or administrative investigation(s).

305.5 INVESTIGATION PROCESS

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

305.5.1 UNINVOLVED OFFICER RESPONSIBILITIES

Upon arrival at the scene of an officer-involved shooting, the first uninvolved SMPD 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 Santa Monica Police Department supervisor should:

- (a) Ensure the tactical stability of the incident.
- (b) Take all reasonable steps to obtain emergency medical attention for all apparently injured individuals.
- (c) 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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- (d) If necessary, the supervisor may administratively order any Santa Monica Police Department 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.
- (e) Provide all available information to the Watch Commander and Public Safety Communications Center. If feasible, sensitive information should be communicated over secure networks.
- (f) Take command of and secure the incident scene with additional Santa Monica Police Department members until properly relieved by Criminal Investigations Supervisor or other assigned personnel or investigator.
- (g) As soon as practicable, ensure the involved officer's clothing and equipment is collected by investigators or Forensics lab personnel.
- (h) As soon as practicable, ensure that involved officer is transported (separately) to the station or designated facility for further direction.
 - (a) Each involved Santa Monica Police Department officer shall be given an administrative order not to discuss the incident with other involved officers or Santa Monica Police Department members pending further direction from a superior officer.
 - (b) Under most circumstances, when an officer's handgun was discharged in an officer-involved shooting, it will be retained by the involved officer until the Department Rangemaster collects it as evidence. The officer will be provided with a comparable replacement weapon as soon as practical. The exchange of weapons shall occur in the presence of the Robbery-Homicide Unit (RHU) Supervisor, or his/her designee, who will document the exchange.
 - (c) As soon as feasible, an uninvolved supervisor or designee shall accompany the involved officer(s) to be of assistance. No discussions regarding the incident are to occur.
- (i) Confirm any long gun discharged in an officer-involved shooting, not otherwise having evidentiary significance, be placed on "safe," and returned to its assigned storage location (i.e. vehicle gun rack).
- (j) Safeguard any vehicle at the scene of an officer-involved shooting in which any involved officer was the driver or passenger. Ensure it is left at the scene, intact, until the RHU Supervisor or his/her designee determines its disposition.

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305.5.3 WATCH COMMANDER RESPONSIBILITIES

Upon learning of an officer-involved shooting or death, the Watch Commander shall be responsible for coordinating all aspects of the incident until he/she is relieved by the Deputy Chief of Police or a Division Commander.

All non-media related, outside inquiries about the incident shall be directed to the Watch Commander. Media based inquiries will be routed to the Press Information Officer.

305.5.4 NOTIFICATIONS

The Watch Commander shall notify the following person(s) as soon as practicable:

- A supervisor to the scene (or assign one to respond)
- Duty Commander M-F (OD Commander)/ F-M (Standby-by Captain)
- Deputy Chief of Police or designee
 - Chief of Police
- Criminal Investigations Commander (non-traffic related death)
- Special Operations Commander (traffic related death)
- District Attorney Response Team (DART)
- Forensic Supervisor (consultation)
- City Attorney
- Risk Management
- Psychological/Peer Support Supervisor (Lt./Sgt.)
- Peer Counselor (if requested by involved officer)
- Outside agency investigator (if appropriate)
- Coroner (if necessary)
- Rangemaster (officer-involved shooting)
- Press Information Officer
- Chaplain (if requested by involved officer)
- Attorney General's Office (in compliance with Government Code § 12525.3)

305.5.5 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) Any request for legal or union representation will be accommodated.
 1. Involved SMPD 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.

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2. Requests from involved non-SMPD 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 SMPD officer. A licensed psychotherapist may also be provided to any other affected SMPD members, 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 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.
 3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).
- (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 SMPD officer shall be given reasonable paid administrative leave following an officer-involved shooting or death. It shall be the responsibility of the Watch Commander to make schedule adjustments to accommodate such leave.

305.5.6 INVOLVED OFFICERS- RETURN TO REGULAR DUTY

It is mandatory that any officer who causes death or grave bodily injury to another while acting in the course of his/her duties, have a counseling session with the Departmental psychologist prior to returning to regular duty and no later than 72 hours following the incident. The list of Department-approved psychologists is in the Watch Commander's Office and the Professional Standards Section. The involved employee or supervisor may schedule the appointment.

All counseling sessions are protected by psychotherapist/patient privilege unless the employee grants permission to release information or the employee presents a concern that the Departmental psychologist deems a public safety issue. The Department psychologist shall be provided the name of the employee's Division Commander so notification can be made that the appointment was completed.

Subsequent quarterly appointments with the Departmental psychologist are mandatory for one year following the incident. The Division Commander shall ensure the employee is scheduled for and completes the follow-up appointments with the Departmental psychologist.

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After completing the initial appointment with the Departmental psychologist, an officer may be temporarily reassigned to station duties for a minimum of three (3) working days. The temporary reassignment shall not reflect upon the propriety of the officer's action and is not imposed as punishment. Rather, it is considered to be in the best interest of the officer.

Each involved Santa Monica Police Department officer shall be given reasonable paid administrative leave following an officer-involved shooting or other action of an officer resulting in death. It shall be the responsibility of the Watch Commander 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. The California Attorney General will investigate all officer-involved shootings involving unarmed persons (see § 305.6.1).

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) SMPD supervisors and Internal Affairs Unit personnel should not participate directly in any voluntary interview of SMPD 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 his/her choosing or an attorney prior to speaking with criminal investigators (Government 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 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 ATTORNEY GENERAL'S INVESTIGATION

In accordance with existing law, any officer-involved shooting resulting in the death of an unarmed civilian will be investigated by the Attorney General, or designated State prosecutor. The state prosecutor is authorized to do the following (Government Code § 12525.3):

- (a) Investigate and gather facts

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- (b) Prepare a written report containing a statement of the facts, a detailed analysis and conclusion for each investigatory issue, recommendations to modify the policies and practices of the law enforcement agency, as applicable.
- (c) If criminal charges against the involved officers are found to be warranted, the state prosecutor will initiate and prosecute criminal action against the officer.

An unarmed civilian is anyone who is **NOT** in possession of a deadly weapon. A “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 or metal knuckle (Government Code § 12525.3(a)(1)).

The Department will maintain control of the scene and should wait a reasonable amount of time for the DOJ response team to arrive before initiating the criminal investigation. If there are extended delays, then investigators should continue with their investigation. The DOJ will not be conducting an investigation in lieu of the Department; therefore, members involved in the officer-involved shooting shall still follow the guidelines set forth in this policy.

For officer-involved shooting incidents involving an unarmed civilian that are determined to be under the purview of the DOJ, the District Attorney's Response Team (DART) will not respond to the scene. Nonetheless, the DART team shall be notified of any officer involved shooting where a person was struck or resulted in the death of a person.

For further guidelines, refer to the [Procedure Manual](#).

305.6.2 REPORTS BY INVOLVED SMPD OFFICERS

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

While the involved SMPD 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 SMPD 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.

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305.6.3 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.

305.6.4 INVESTIGATIVE PERSONNEL

Once notified of an officer-involved shooting or death, it shall be the responsibility of the designated Criminal Investigations Division supervisor to assign appropriate investigative personnel to handle the investigation of related crimes. Department investigators will be assigned to work with 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 Criminal Investigations Division supervisor for approval. Privileged reports shall be maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the appropriate Division Commander.

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 Santa Monica Police Department officers to determine conformance with Department policy. The investigation will be conducted under the supervision of the Internal Affairs Unit and will be considered a confidential officer personnel file.

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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 provided there is reasonable cause for such testing. 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.
- (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 all constitutional Miranda rights (Government Code 3303(h)) and, assuming no voluntary waiver, will then be given an administrative order to provide full and truthful answers to all questions (Government Code § 3303(e)). The officer shall be informed, however, that the interview will be for administrative purposes only and that the statement cannot be used criminally (The Lybarger or Garrity admonishment).
 - 5. Regardless of whether the use of force is an issue in the case, the completed administrative investigation shall be submitted to the Incident Review Board, which will restrict its findings as to whether there was compliance with the Use of Force Policy.
 - 6. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

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305.8 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 City Attorney's Office, as appropriate.

305.9 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.

305.10 DEBRIEFING

Following an officer-involved shooting or death, the Santa Monica Police Department shall conduct both a critical incident/stress debriefing and a tactical debriefing.

305.10.1 CRITICAL INCIDENT/STRESS DEBRIEFING

A critical incident/stress debriefing should occur as soon as practicable. The Administrative Services Division Commander, or designee, is responsible for organizing the debriefing. Notes and recorded statements shall 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. 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., dispatchers, other civilian member personnel, other first responders from law enforcement or fire services). Family or other support personnel may attend with the concurrence of those involved in the incident. The debriefing shall be closed to the public and should be closed to all other members of the Department, including supervisory and Internal Affairs Unit personnel.

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305.10.2 TACTICAL DEBRIEFING

A tactical debriefing shall take place to identify any training or areas of policy that need improvement. The Administrative Services Division Commander or his/her designee 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 available to the Watch Commander, Criminal Investigations Division Commander and Press Information Officer in the event of inquiries from the media.

The identities of officers involved in shootings or other major incidents may only be released in accordance with existing law. The Department shall not subject any involved Santa Monica Police Department officer to visits by the media (Government Code § 3303(e)). No Santa Monica Police Department employee shall make any comment to the media including social media platforms (Twitter, Facebook, Instagram, etc.), unless he/she is authorized by the Chief of Police or designee. 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 Santa Monica Police Department jurisdiction and qualifies to be reported to the state as a justifiable homicide or an in-custody death, the Criminal Investigations Division Commander will ensure that the Records Unit Supervisor is provided with enough information to meet the reporting requirements (Penal Code § 196; Penal Code § 13022; Government Code § 12525).