

## 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 deputy.

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

### 305.2 INVESTIGATION RESPONSIBILITY

This department conforms to the Shasta County Multi-Agency Officer Involved Critical Incident Protocol for investigating officer-involved shootings.

### 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 deputies.
- A civil investigation to determine potential liability.

### 305.4 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.

#### 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. For example, the Shasta County Marshal's Office would control the investigation if the suspect's crime occurred in the Superior Court's jurisdiction.

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 Marshal and with concurrence from the other agency.

# Shasta County Marshal's Office

Shasta County Marshal Policy Manual

## *Officer-Involved Shootings and Deaths*

---

### 305.4.2 CRIMINAL INVESTIGATION OF OFFICER ACTIONS

The control of the criminal investigation into the involved deputy's conduct during the incident will be determined by the employing agency's protocol. When a deputy from this department is involved, the criminal investigation will be handled according to the Criminal Investigation section of this policy.

Requests made of this department to investigate a shooting or death involving an outside agency's officer shall be referred to the Marshal or the authorized designee for approval.

### 305.4.3 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.

### 305.4.4 INVESTIGATION RESPONSIBILITY MATRIX

The following table identifies the possible scenarios and responsibilities for the investigation of officer-involved shootings:

	<b>Criminal Investigation of Suspect(s)</b>	<b>Criminal Investigation of Officer(s)</b>	<b>Civil Investigation</b>	<b>Administrative Investigation</b>
<b>SCMO Deputy in This Jurisdiction</b>	Redding Police Department	Redding Police Department	Court Civil Liability Team	Administrative Sergeant
<b>Allied Agency's Officer in This Jurisdiction</b>	Redding Police Department	Redding Police Department	Involved Officer's Department	Involved Officer's Department
<b>SCMO Deputy in Another Jurisdiction</b>	Agency where incident occurred	Decision made by agency where incident occurred	Court Civil Liability Team	Administrative Sergeant

## 305.5 THE INVESTIGATION PROCESS

The following procedures are guidelines used in the investigation of an Deputy-involved shooting.

### 305.5.1 UNINVOLVED DEPUTY RESPONSIBILITIES

Upon arrival at the scene of an officer-involved shooting, the first uninvolved SCMO deputy will be the deputy-in-charge and will assume the responsibilities of a supervisor until properly relieved.

This deputy 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.

# Shasta County Marshal's Office

Shasta County Marshal Policy Manual

## *Officer-Involved Shootings and Deaths*

---

### 305.5.2 SHIFT SERGEANT DUTIES

Upon learning of an Deputy-involved shooting, the Sergeant shall be responsible for coordinating all aspects of the incident until relieved by the Marshal.

### 305.5.3 NOTIFICATIONS

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

- Marshal
- Court Executive Officer
- District Attorney OIS rollout team
- Internal Affairs Unit supervisor
- Court's General Counsel
- Psychological/Peer support personnel
- Coroner (if necessary)
- Deputy representative (if requested)
- Chaplain

All outside inquiries about the incident shall be directed to the Sergeant.

### 305.5.4 MEDIA RELATIONS

A single press release shall be prepared with input and concurrence from the supervisor and agency representative responsible for each phase of the investigation. This release will be reviewed and approved by the Marshal and Court Executive Officer in the event of inquiries from the media.

It will be the policy of this department to not release the identities of involved deputies absent their consent or as required by law. Moreover, no involved deputy shall be subjected to contact from the media (Government Code § 3303(e)) and no involved deputy shall make any comments to the press unless authorized by the Marshal or a supervisor.

Law enforcement officials receiving inquiries regarding incidents occurring in other agency jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

### 305.5.5 INVOLVED OFFICERS

Once the involved deputy(s) have arrived at the station, the Sergeant should admonish each deputy that the incident shall not be discussed except with authorized personnel or representatives. The following shall be considered for the involved deputy:

# Shasta County Marshal's Office

Shasta County Marshal Policy Manual

## *Officer-Involved Shootings and Deaths*

---

- (a) Any request for department or legal representation will be accommodated, however, no involved deputy shall be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report (Government Code § 3303(i)).
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (c) Discussions with department representatives (e.g., employee association) will be privileged only as to the discussion of non-criminal information however.
- (d) A psychotherapist shall be provided by the Department to each involved deputy, or any other deputy, upon request.
  - 1. Interviews with a licensed psychotherapist will be considered privileged and will not be disclosed except to the extent that the deputy is or is not fit for return to duty.
  - 2. An interview or session with a licensed psychotherapist may take place prior to the involved deputy providing a formal interview or report, but the involved deputies 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.
- (e) Although the Department will honor the sensitivity of communications with peer counselors, there is no legal privilege to such. Peer counselors are cautioned against discussing the facts of any incident with an involved or witness deputy.

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

Investigators shall make reasonable accommodations to the deputy's physical and emotional needs (Government Code § 3303(d)).

Each involved deputy shall be given reasonable paid administrative leave following a deputy-involved shooting. It shall be the responsibility of the Sergeant to make schedule adjustments to accommodate such leave.

### 305.5.6 SUPERVISOR RESPONSIBILITIES

Upon arrival at the scene, the first uninvolved SCMO 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.

# Shasta County Marshal's Office

## Shasta County Marshal Policy Manual

### *Officer-Involved Shootings and Deaths*

---

- (b) If necessary, the supervisor may administratively order any SCMO deputy 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 Sergeant and the Dispatch Center. If feasible, sensitive information should be communicated over secure networks.
- (d) Take command of and secure the incident scene with additional SCMO 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.
  - 1. Each involved SCMO deputy should be given an administrative order not to discuss the incident with other involved officers or SCMO members pending further direction from a supervisor.
  - 2. 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 deputies.

#### **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) SCMO supervisors and Internal Affairs Unit personnel should not participate directly in any voluntary interview of SCMO deputies. 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 deputies 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

# Shasta County Marshal's Office

## Shasta County Marshal Policy Manual

### *Officer-Involved Shootings and Deaths*

---

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 SCMO DEPUTIES

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

While the involved SCMO deputy 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 SCMO deputy 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, deputies should attempt to identify the witness prior to his/her departure.

# Shasta County Marshal's Office

Shasta County Marshal Policy Manual

## *Officer-Involved Shootings and Deaths*

---

- (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.

### **305.6.3 INVESTIGATIVE PERSONNEL**

Once notified of an officer-involved shooting or death, it shall be the responsibility of the designated Investigation Team 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 Investigation Team supervisor for approval. Privileged reports shall be maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the appropriate Sergeant.

### **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 SCMO deputies 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 deputy personnel file.

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

- (a) Any deputy 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 deputy, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (b) If any deputy 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 deputy.
  - 1. If a further interview of the deputy 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 deputy shall be provided with a copy of his/her prior statement before proceeding with any subsequent interviews.

# Shasta County Marshal's Office

## Shasta County Marshal Policy Manual

### *Officer-Involved Shootings and Deaths*

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- (c) In the event that an involved deputy 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 deputy's physical and psychological needs have been addressed before commencing the interview.
  2. If requested, the deputy 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 deputy's statement, involved deputies 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 deputy may also record the interview (Government Code § 3303(g)).
  4. The deputy shall be informed of the nature of the investigation. If a deputy 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 deputy shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.
  5. The Internal Affairs 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 Use of Force Review Board, which will restrict its findings as to whether there was compliance with the Use of Force Policy.
  7. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

#### **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 General Counsel's Office, as appropriate.



# Shasta County Marshal's Office

Shasta County Marshal Policy Manual

## *Officer-Involved Shootings and Deaths*

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### **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 Shasta County Marshal's Office should 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 Administration Sergeant 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. 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 non-sworn personnel). 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.

#### **305.10.2 TACTICAL DEBRIEFING**

A tactical debriefing should take place to identify any training or areas of policy that need improvement. The Marshal 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 Sergeant, Investigation Sergeant and Marshal in the event of inquiries from the media.

The Department shall not subject any involved SCMO deputy to visits by the media (Government Code § 3303(e)). No involved SCMO deputy shall make any comment to the media unless he/she is authorized by the Marshal or a Sergeant. Department members receiving inquiries regarding officer-involved shootings or deaths occurring in other jurisdictions shall refrain from

# Shasta County Marshal's Office

Shasta County Marshal Policy Manual

## *Officer-Involved Shootings and Deaths*

---

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 Shasta County Marshal's Office jurisdiction and qualifies to be reported to the state as a justifiable homicide or an in-custody death, the Field Operations Sergeant will ensure that the Sergeant is provided with enough information to meet the reporting requirements (Penal Code § 196; Penal Code § 13022; Government Code § 12525).