

FATAL INCIDENT PROTOCOL

June 27, 2006

Summary

The 2005-2006 Sonoma County Grand Jury reviewed four officer-involved incidents, three held over from the previous year's grand jury and one for this current year. The following reports were reviewed by the grand jury:

- 1) September 17, 2004, involved a tri-county, multi-agency vehicle pursuit and a short, foot pursuit which resulted in an officer-involved shooting and a death;
- 2) November 11, 2004, involved a homicide and stand off which ended in a officer-involved shooting and a death;
- 3) January 28, 2005, involved an officer-involved shooting and a death; and,
- 4) July 16, 2005, while attempting to take a man who was under the influence of methamphetamines into custody, an officer-involved incident and death resulted.

Each report was found by the grand jury to be a thorough, detailed investigation. The District Attorney concluded that the officers involved in the incidents were not guilty of any criminal wrongdoing. The Jury concurs with these findings.

Choices made ... Decisions that followed

When someone makes a choice and decides to violate the law, the peace officers of our county are mandated to take enforcement action. The choice made by the violator could force a peace officer to take deadly action. This choice made has a domino effect. It affects all the parties involved, the families of the violator as well as the families of the peace officers, and in the long run, it affects the community at large.

After an officer-involved incident an investigation is conducted. What does "under investigation" mean? Was the law enforcement action warranted? Did law enforcement personnel act with proper force? In Sonoma County, when a law enforcement officer is involved in a fatal injury, a countywide protocol is followed. This protocol is a comprehensive and detailed directive of how to investigate a fatal incident. Fatal injury is defined as "death or injury, which is so severe that death is likely to result."

The 2005-2006 Sonoma County Grand Jury reviewed four fatal incidents consisting of three reports each. For each fatal incident investigation separate reports were written by three agencies:

- A law enforcement agency, not involved in the incident, conducting the independent (or protocol) investigation
- The primary law enforcement agency involved in the incident
- The District Attorney's Office.

Of the incidents investigated and reviewed during the 2005-2006 grand jury term, all reviewing agencies agreed that no criminal offense had occurred. The grand jury found that the written reports were well documented and findings were without bias.

Reason for Investigation

The grand jury has historically reviewed fatal incident reports issued during its term to determine that county law enforcement:

- Complied with county fatal incident protocol
- Acted appropriately during the fatal incident
- Reports were written without bias
- Reports contained factual witness statements, determined by comparison of each written report
- Reports established a timeline of events leading up to and including the fatal incident.

Background

A fatal incident is defined in the Sonoma County Law Enforcement Chiefs' Association's "*Law Enforcement Employee-Involved Fatal Incident Protocol Investigation*")¹

- A specific incident occurring in Sonoma County
- A law enforcement employee was involved and a fatal, or potentially fatal, injury occurred.

The protocol dictates that a task force of three separate agencies be formed to investigate, review, and write reports. This task force is comprised of:

- An outside law enforcement agency not involved in the incident
- The primary law enforcement agency involved in the incident
- The District Attorney's Office

The District Attorney's Office works with the outside agency, and based on the evidence gathered, establishes the presence or absence of criminal liability. The District Attorney's Office summarizes the incident and recommendations and reports them to the agency involved. The outside law enforcement agency issues a separate report. The primary agency also conducts a separate investigation and prepares its own report. When all reports are completed, including the District Attorney's report, a completed incident report is given to the grand jury for review.

Investigative Procedures

The Grand Jury reviewed the completed reports by the primary and outside agency, as well as the District Attorney's reports on the following incidents:

- 09/18/04 - Tri-county, multi agency vehicle pursuit, short foot pursuit, officer-involved shooting
- 11/11/04 - A man shot and killed his brother-in-law, a police stand off takes place, officer-involved shooting
- 01/28/05 - Vehicle pursuit, followed by a foot pursuit after solo vehicle crash, driver displays weapon in threatening manner, officer-involved shooting
- 07/16/05 - A man under the influence of methamphetamines violently resisted arrest and dies; an officer-involved incident.

Findings

F1. The "Law Enforcement Employee-Involved Fatal Incident Protocol" requires that investigations be conducted "free of conflicts of interest."

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Fatal Incident Protocol (continued)

- F2. The primary agency that employed the officers involved conducted their own administrative investigation to determine:
- If the agency's policies and procedures were followed
 - If there could be improvement in those policies and procedures
 - If any disciplinary action should be imposed against a particular individual or individuals.
- F3. The District Attorney's Office, based on the evidence, reached its conclusions and issued a report for all the reviewed fatal incidents.
- F4. The Fatal Incident Report Status Log was sent quarterly from the District Attorney's Office to the Grand Jury.

Conclusions

The District Attorney's Office concluded there was not sufficient evidence of criminal liability on the fatal incidents reviewed.

The grand jury found that the fatal incident reports reflected thorough, detailed, and unbiased investigations by those assigned to the cases. The conclusion of the District Attorney's Office is clearly based on all aspects of submitted evidence, photographs, witness statements and reports by involved personnel. The grand jury found that established protocol was followed in the incidents reviewed.

Recommendations

- R1. The Grand Jury recommends that they continue to be notified as soon as an incident protocol is initiated.
- R2. The District Attorney continues to provide the grand jury with a copy of the Fatal Incident Report Status Log on a monthly basis.

Required Responses to Findings and Recommendations

None

)¹ *Sonoma County Law Enforcement Chief's Association's Protocol: 93-1 Revised 06/2004*
"Law Enforcement Employee-Involved Fatal Incident Protocol Investigation"