

# FATAL INCIDENT

## Summary

**An armed robbery, a high-speed car chase, which resulted in a shooting and a death**

*The morning paper headline screams*

## "POLICE INVOLVED IN SHOOTING CIRCUMSTANCES UNDER INVESTIGATION"

What does under investigation mean? Was the law enforcement action warranted? Did law enforcement 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 investigation. Fatal injury is defined as death or injury, which is so severe that death is likely to result.

The 2004-2005 Sonoma County grand jury reviewed one fatal incident consisting of three reports. For each fatal incident investigation separate reports are 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 incident investigated and reviewed during the 2004-2005 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"*<sup>1</sup> as:

- 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 report by primary and outside agency as well as the District Attorney's reports on the following incident:

- **07/28/03** Drug overdose resulting in death during booking at the Main Adult Detention Facility (reviewed completed incident report).

The following reports were not completed:

- **09/18/04** Driving under the influence (DUI) car chase, officer-involved shooting
- **11/11/04** Citizen shot, resulting in officer-involved shooting
- **01/30/05** Car chase, officer involved shooting

## Findings

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

F2. The primary agency that employed the officer 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 one fatal incident.

F4. The Fatal Incident Report Status Log was sent quarterly from the District Attorney's Office to the grand jury.

### **Conclusion**

The District Attorney's Office concluded there was insufficient evidence of criminal liability on the fatal incident reviewed.

The grand jury found that the fatal incident reports reflected a thorough, detailed, and unbiased investigation by those assigned to the case. 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 incident reviewed.

### **Recommendations**

R1. The grand jury recommends that they be notified as soon as an incident protocol is initiated.

R2. The District Attorney must provide the grand jury with a copy of the Fatal Incident Report Status Log on a monthly basis. This log will provide improved continuity on the incident(s) status.

### **Required responses to Findings**

None

### **Requested responses to Recommendations**

None

### **Required responses to Recommendations:**

District Attorney - R1, R2

---

<sup>1</sup> *Sonoma County Law Enforcement Chiefs' Association's  
Protocol: 93-1 Revised 11/1998 06/2004  
Law Enforcement Employee-Involved Fatal Incident Protocol Investigation*