

OFFICER-INVOLVED FATAL-INCIDENT REPORTS

The 2007-2008 Sonoma County Civil Grand Jury reviewed three Fatal-Incident Reports regarding officer-involved shootings. Two of the incidents involved mentally ill subjects and one, a known felon and murder suspect, was said to be armed and dangerous. Each report reflected a thorough and detailed investigation of the covered incident. The District Attorney concluded in each report that there was no criminal wrongdoing by the law-enforcement officers involved in each incident.

Reason for Investigation

The Grand Jury has historically reviewed Fatal Incident Reports received from the District Attorney during its term to determine that county law-enforcement agencies:

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

Background

The California Penal Code requires that a formal investigation of an officer-involved critical incident be conducted to determine if a criminal violation has occurred. The "Sonoma County Law Enforcement Chiefs Association Employee-Involved Fatal Incident Protocol" (Protocol), establishes the County-wide policy and procedures for prompt and efficient investigation if:

- A specific officer-involved critical incident occurred 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, based on the evidence gathered, establishes the presence or absence of criminal liability and develops a Fatal Incident Report. This report details the evidence and cites the District Attorney's conclusions. It is submitted to the Sonoma County Civil Grand Jury for an independent 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:

- 2/23/07 Fleeing murder suspect, known to be armed and dangerous, officer-involved shooting
- 3/12/07 Mentally ill juvenile armed and holding brother hostage, non-lethal intervention failed, officer-involved shooting
- 4/09/07 Mentally ill male firing bullets into ceiling, non-lethal intervention failed, officer-involved shooting

Findings

- F1** The Law Enforcement Employee-Involved Fatal Incident Protocol requires that investigations be conducted "free of conflicts of interest." For that reason, the investigations were conducted by a law-enforcement agency whose employees were not involved in the incidents. The District Attorney's Office also participated in the investigations and had the authority to investigate separately.
- F2** Upon completion of each incident investigation, the District Attorney's Office reviewed the physical evidence, the transcribed witness interviews, photographs, and all other evidentiary material.
- F3** Based on the evidence, the District Attorney's Office reached its conclusions and issued fatal-incident reports for the cases. In each, the District Attorney's Office concluded there was insufficient evidence of criminal liability.
- F4** The agencies that employ the involved officers conducted their own Administrative investigation of each incident. Administrative investigations seek to determine whether the agency's policies and procedures were followed in the incident and whether there could be improvement in those policies and procedures. They also make a determination as to whether any disciplinary action should be imposed against a particular individual or individuals.
- F5** Two of the incidents in this report involved the fatal shooting of mentally ill people. The Sonoma County Sheriff's Department is committed to its Crisis Intervention Training Academy (CIT) and has obtained \$360,000 in funding over the next five years from the Sonoma County Board of Supervisors to support the program. The initial 32-hour class was started on March 8, 2008. The Sheriff's commitment to CIT will result in the training of 35 Sonoma County law-enforcement officers twice a year. The overall program goal is to train 350 Sonoma County law-enforcement officers over the next five years. This class deals directly with the problems that officers encounter when confronting a mentally ill person.

Conclusions

Two of these cases were truly tragic deaths because they involved mentally ill subjects. It needs to be said that in Sonoma County there is no viable crisis-intervention option for the families of these mentally ill subjects. As a result, some of the responsibility for these deaths may be placed on the Sonoma County mental health care system.

A domestic violence call involving a mentally ill person is by far the most dangerous situation that a police officer will encounter. An officer is called to resolve this crisis when no one else can. The mentally ill subject is often irrational, experiencing delusions, and acting unpredictably. When there are weapons involved (as was the case here), the risk to the officer and everyone in the vicinity escalates dramatically.

If your loved one is wielding a weapon or firing a gun, the consequences are predictable. Police officers are human beings with families who take a sworn oath to protect lives and preserve peace. When they are confronted with violence they are not trained to retreat. They will react and use the force necessary to diffuse a situation safely. In some cases, lethal force is a result of the escalation of events. Saving their own lives, as well as those they are charged with protecting, is their duty.

In both of these cases non-lethal force was used, but had no affect on the mentally ill subjects. It was only after the failure of non-lethal force that lethal force was used to protect the lives of others. The Sonoma County District Attorney has concluded that all officer-involved protocols were followed and that no wrongdoing was found. After reviewing these fatal incidents, the Sonoma County Civil Grand Jury concurs with the District Attorney's findings.

The public is understandably shocked and dismayed when it hears about a mentally ill person being killed by a police officer. The thought that immediately comes to mind is that there must be a better way. Sonoma County law enforcement shares this concern. The new CIT program described in our findings is a giant step towards the achievement of a better outcome in these extreme situations. The course outline we reviewed should help our police officers understand and apply techniques to minimize the use of lethal force in these crisis situations.

Recommendations

- R1. The Sonoma County Grand Jury recommends that the District Attorney continue to notify them as soon as a fatal- incident protocol is initiated.
- R2. The District Attorney should continue to supply the Grand Jury with a copy of the fatal-incident report status log in a timely fashion and on a monthly basis.

Required Responses to Recommendations

District Attorney	R1, R2
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