

# COUNTY OF SACRAMENTO

COUNTY ADMINISTRATION BUILDING  
700 H STREET, SUITE 2450, SACRAMENTO, CALIFORNIA 95814

BOARD OF SUPERVISORS  
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CLERK OF THE BOARD  
CYNDI LEE

September 10, 2013

Honorable Laurie Earl, Presiding Judge  
Sacramento County Superior Court  
720 9<sup>th</sup> Street, Room 611  
Sacramento, CA 95814

RE: Sacramento County Grand Jury Consolidated Final Report 2012-13

Dear Judge Earl:

Enclosed is a copy of the Sacramento County response to the 2013 recommendations contained in the 2012-13 Grand Jury Final Report. The Board of Supervisors at their meeting of September 10, 2013 approved this report as submitted.

If you have any questions, please contact my office at 874-5451.

Sincerely,

Cyndi Lee, Clerk  
Board of Supervisors

Cc: Becky Castaneda, Grand Jury Coordinator

For the Agenda of:  
September 10, 2013

SEP 10 2013  
By Cyndi Lee  
Clerk of the Board

To: Board of Supervisors

From: County Executive

Subject: Response To The 2012-13 Grand Jury Final Report

Supervisory  
District(s): All

Contact: Navdeep S. Gill, Assistant County Executive, 874-5510

**Overview**

This is the annual response to the recommendations of the Grand Jury. Responses have been submitted from the Sheriff's Department and the District Attorney's Office, and are attached.

**Recommendation**

1. Adopt this report as Sacramento County's response to recommendations contained in the 2012-13 Grand Jury Final Report.
2. Direct the Clerk of the Board to forward a copy of this report to the Presiding Judge of the Superior Court no later than September 25, 2013.

**Measures/Evaluation**

Not applicable.

**Fiscal Impact**

Staff from the Sheriff's Department, the District Attorney's Office and the County Executive Office contributed to this report. Costs incurred were absorbed within each department's budget.

**BACKGROUND**

Each year the Sacramento County Grand Jury concludes its work and releases its Final Report, typically the last week in June. The report, which can address a variety of activities, functions, and responsibilities of government, typically contains findings and recommendations with a response specifically directed to the Presiding Judge of the Superior Court.

The form of the County's responses as required by law is as follows:

As to each Grand Jury finding, the responding person or entity shall indicate one of the following:

1. The respondent agrees with the finding.

2. The respondent disagrees wholly or partially with the finding in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons.

As to each Grand Jury recommendation, the responding person or entity shall report one of the following actions:

1. The recommendation has been implemented, with a summary regarding the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
3. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of the publication of the Grand Jury report.
4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation.

If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

## **DISCUSSION**

The 2012-13 Grand Jury Final Report contained one investigative report on an issue pertaining to the County. The report, "Deputy-Involved Shootings Sacramento County Sheriff's Department", required county responses from the Sheriff's Department, the District Attorney, the Office of the Inspector General and the County Board of Supervisors. The Grand Jury Report requested a response by September 28, 2013 however the Sheriff and District Attorney responses were due within 60 days, rather than 90 days, of the Grand Jury submitting its final report to the presiding judge and have therefore already been submitted to the presiding judge. The Sheriff and District Attorney responses are included as attachments to this letter. In addition, the position of Inspector General is currently vacant therefore no response is included from that office.

### **Deputy-Involved Shootings Sacramento County Sheriff's Department**

***Finding 1** The Grand Jury finds that the decision by the District Attorney to discontinue the independent review of officer-involved shootings has negatively affected the perception of law enforcement accountability in the County and public confidence in the review process. The Grand Jury further finds the independent review of deputy-involved shooting cases should be conducted by the Office of the Inspector General (OIG) or the District Attorney.*

The District Attorney Response: The District Attorney sent her response to the presiding judge in a separate correspondence on August 26, 2013 per Penal Code section 933(c). The response has been included as part of this report as Attachment 1.

Board of Supervisors Response: The Board disagrees partially with this finding. While it is reasonable to conclude that the decision by the District Attorney to discontinue her Office's independent review of officer-involved shootings may have negatively affected public perception of law enforcement accountability and confidence in the review process, the Grand Jury did not present any evidence to support this opinion. We agree that an independent review of officer-involved shootings, though not mandated by law, would be beneficial and that the District Attorney and Office of the Inspector General would be appropriate agencies to conduct such reviews. The level and extent of any reviews, however, must be weighed against other competing needs for limited General Fund resources.

***Recommendation 1*** *The Grand Jury recommends the Board of Supervisors provide sufficient funds to support the comprehensive, objective review and analysis of officer-involved shootings by either the OIG or the District Attorney, or both, as the Board determines is appropriate and necessary.*

District Attorney Response: The District Attorney sent her response to the presiding judge in a separate correspondence on August 26, 2013 per Penal Code section 933(c). The response has been included as part of this report as Attachment 1.

Board of Supervisor Response: The recommendation has been implemented. The Fiscal Year 2013-14 budget going before the Board on September 10, 2013 includes an increase of \$1.14 million in General Fund allocation for the District Attorney as compared to Fiscal Year 2012-13 Adjusted Budget levels. The District Attorney has discretion over how she spends her allocation and in June 2013 she announced that deputy-involved shooting investigations would resume in a modified format. The District Attorney's review and legal analysis will be based solely on the investigation materials from the Sheriff's own investigation, and investigator response will continue to be provided if there are extenuating circumstances.

The budget for the OIG has increased approximately \$34,000 (55%) from the Adjusted Fiscal Year 2012-13 budget to the recommended Fiscal Year 2013-14 budget, and deputy-involved shooting investigations are included in the scope of services for this office.

***Finding 2*** *The Grand Jury finds the Sheriff's Department and the OIG do not conduct an analysis of deputy-involved shootings incidents to identify the behavior, policy, or tactical issues that are present. The Grand Jury further finds the Sheriff's Department does not routinely review shooting cases to identify "lessons learned" that can be incorporated in training.*

Sheriff Response: The Sheriff sent his response to the presiding judge in a separate correspondence per Penal Code section 933(c). The response has been included as part of this report as Attachment 2.

***Recommendation 2*** *The Grand Jury recommends the Sheriff consider restoring the use-of-force review process in the Department with a specific focus on the identification of behavior, policy*



*and tactical issues and the “lessons learned”. The Grand Jury further recommends the review panel include both tactical and training staff.*

Sheriff Response: The Sheriff sent his response to the presiding judge in a separate correspondence per Penal Code section 933(c). The response has been included as part of this report as Attachment 2.

***Finding 3:*** *The Grand Jury finds that there is insufficient communication between the Office of the Inspector General and the administration of the Sheriff’s Department concerning the “lessons learned” from the shooting cases.*

Sheriff Response: The Sheriff sent his response to the presiding judge in a separate correspondence per Penal Code section 933(c). The response has been included as part of this report as Attachment 2.

***Recommendation 3*** *The Grand Jury recommends that the Inspector General adopt a more proactive review of deputy-involved shooting incidents, beyond simply reviewing the findings of the Department’s internal investigation. Rather, the Inspector General should review each incident with the goal of communicating “lessons learned” to the Department.*

Sheriff Response: The Sheriff sent his response to the Presiding Judge in a separate correspondence per Penal Code section 933(c). The response has been included as part of this report as Attachment 2.

***Finding 4*** *The Grand Jury finds the policies and orders of the SSD concerning use-of-force and deadly force are relatively generic and not comprehensive.*

Sheriff Response: The Sheriff sent his response to the presiding judge in a separate correspondence per Penal Code section 933(c). The response has been included as part of this report as Attachment 2.

***Recommendation 4*** *The Grand Jury recommends the Sheriff initiate a review of the orders and policies concerning the use-of-force and deadly force, and revise those orders as appropriate and legally competent to specifically address the topics that are not addressed in the current policies (e.g., shooting at a moving vehicle). The Grand Jury further recommends the Sheriff consider the inclusion of use-of-force policy in tactical and firearms training courses developed and presented in the department.*

Sheriff Response: The Sheriff sent his response to the presiding judge in a separate correspondence per Penal Code section 933(c). The response has been included as part of this report as Attachment 2.

**FINANCIAL ANALYSIS**

Staff from the Sheriff's Department, the District Attorney's Office and the County Executive's Office contributed to this report. Costs incurred were absorbed within each department's budget.

Respectfully submitted,

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NAVDEEP S. GILL  
Assistant County Executive

Attachments:

- Attachment 1 – District Attorney Response to 2012-13 Grand Jury Report
- Attachment 2 – Sheriff Response to 2012-13 Grand Jury Report



OFFICE OF THE  
DISTRICT ATTORNEY  
SACRAMENTO COUNTY

CYNTHIA G. BESEMER  
Chief Deputy

JAN SCULLY  
District Attorney

ALBERT C. LOCHER  
Assistant District Attorney

August 26, 2013

Honorable Laurie Earl, Presiding Judge  
Sacramento Superior Court  
720 Ninth Street, Department 47  
Sacramento, CA 95814

RE: Sacramento County Grand Jury Consolidated Final Report 2012-2013

Dear Judge Earl:

This letter will serve as my comment pursuant to Penal Code sections 933 and 933.05 concerning the June 28, 2013 Grand Jury report, the particular portion of the report entitled, "INVESTIGATION: Deputy-Involved Shootings, Sacramento County Sheriff's Department," (pages 21-30), specifically Finding 1 and Recommendation 1.

As part of its investigation and review of deputy-involved shootings, the Grand Jury report recounts that before July 2011, my office investigated and reviewed each officer-involved shooting within the county. In June 2011, due to budget cuts and staffing reductions, I announced my office would discontinue the practice.

Reviewing the history of deputy-involved shootings in 2012, the Grand Jury made four findings and recommendations. The ones pertinent to the District Attorney's Office were:

Finding 1: The Grand Jury finds that the decision by the District Attorney to discontinue the independent review of officer-involved shootings has negatively affected the perception of law enforcement accountability in the county and public confidence in the review process. The Grand Jury further finds the independent review of deputy-involved shooting cases should be conducted by the OIG or the District Attorney.

Recommendation 1: The Grand Jury recommends the Board of Supervisors provide sufficient funds to support the comprehensive, objective review and analysis of officer-involved shootings by either the OIG or the District Attorney, or both, as the Board determines is appropriate and necessary.




I agree that independent review of officer-involved shootings contributes to law enforcement accountability and to public confidence in the review of such incidents. However, it is not a universal practice nationwide, or even within California, for the District Attorney to conduct these reviews; it is a discretionary function. When I discontinued the practice in 2011, my office had suffered severe budget cuts for several years. Investigation and review of officer-involved shooting incidents must be handled through general fund resources. Over the course of a four year period, our office lost 20% of general fund attorney positions, 24% of general fund criminalist positions, and 42% of general fund investigator positions. With these cuts impacting day-to-day investigation and prosecution operations, I could not continue the discretionary function of the officer-involved shooting reviews. I did advise the police agencies (including the Sheriff's Department) that my office would consider investigation and review in special situations, on a case-by-case basis, on request. During the period from July 1, 2011 through June 30, 2013, we did undertake the review of a limited number of cases.

While our budget situation is still not ideal, we were able to close the budget gap for the new fiscal year without further layoffs. I concluded that with some reorganization of our Special Investigations section (where officer-involved shootings are handled), we could restore review for these cases in a modified format. Our new procedure involves a more limited commitment of resources, with no regular involvement of District Attorney investigators. Instead, we will rely on the investigative information generated by the police agencies. My letter to the police agencies and my public statement announcing this renewed program are enclosed.

Finally, I welcome the Grand Jury's recommendation that the Board of Supervisors fully fund this function.

Sincerely,



JAN SCULLY  
DISTRICT ATTORNEY

JS:gf

Enclosures



OFFICE OF THE  
**DISTRICT ATTORNEY**

SACRAMENTO COUNTY

**JAN SCULLY**  
DISTRICT ATTORNEY

901 G Street  
Sacramento, CA 95814  
[www.sacda.org](http://www.sacda.org)

**CYNTHIA G. BESEMER**  
CHIEF DEPUTY

**ALBERT C. LOCHER**  
ASSISTANT DISTRICT ATTORNEY

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**MEDIA ADVISORY**

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District Attorney Jan Scully announced that her office will resume review of officer involved shooting cases. The procedure will consist of a legal review and analysis of whether the shooting was lawful, or provides the basis for criminal prosecution of the officer.

In 2011, after severe budget cuts, the District Attorney's Office eliminated regular review of all officer involved shooting cases. The District Attorney would investigate and review some individual cases on special request that were clearly sensitive in nature. Only a few such cases were reviewed under this standard.

Although the District Attorney noted that her budget is by no means ideal, her resources have stabilized to the point where the Special Investigations section of the office can be reorganized, and once again include review of shootings and in-custody deaths. The review process will not include a regular system of having D.A. investigators respond to shooting investigations or conducting independent witness interviews or investigation as had been the case until July 2011. The D.A.'s review and legal analysis will be based solely on the investigation materials from the police agency's own investigation. However, the District Attorney will provide investigator response if there are extenuating circumstances, which has been the practice for the last two years.

District Attorney Scully explained that she could not decide to institute the shooting reviews before knowing what her budget would be for the year, and whether layoffs would be required. The County passed the budget for the new fiscal year on June 11. Scully welcomed the recommendation of the Grand Jury, released today, that the Board of Supervisors provide full funding for the D.A.'s investigation and review of officer involved shootings and in-custody death cases.

View letter from DA Scully to law enforcement agencies informing them of the reinstatement of the review of officer involved shootings.





OFFICE OF THE  
DISTRICT ATTORNEY  
SACRAMENTO COUNTY

JAN SCULLY  
District Attorney

CYNTHIA G. BESEMER  
Chief Deputy

ALBERT C. LOCHER  
Assistant District Attorney

Sheriff Scott Jones  
Sacramento Sheriff's Dept.  
711 G Street  
Sacramento, CA 95814

Chief Sam Somers  
Sacramento Police Dept.  
5770 Freeport Blvd.  
Sacramento, CA 95822

Chief Robert Lehner  
Elk Grove Police Dept.  
8400 Laguna Palms Way  
Elk Grove, CA 95758

Chief Cynthia Renaud  
Folsom Police Dept.  
46 Natoma Street  
Folsom, CA 95630

Chief Bill Bowen  
Galt Police Dept.  
455 Industrial Drive  
Galt, CA 95632

Chief Rosanne Richeal  
Rancho Cordova Police Dept.  
2897 Kilgore Road  
Rancho Cordova, CA 95670

Chief Christopher Boyd  
Citrus Heights Police Dept.  
6315 Fountain Square Dr.  
Citrus Heights, CA 95621

Re: OFFICER INVOLVED SHOOTING CASES

Dear Sheriff and Chiefs of Police:

As you will recall, two-years ago, we were forced to eliminate our review of officer involved shooting (OIS) cases and death in custody cases due to severe budget restrictions placed upon this office. It was not an easy decision to make because I have always valued the importance of this independent review for the community and our law enforcement partners. Over this time, we did review a few OIS cases, on special request, that were clearly sensitive in nature.

While our budget situation is clearly still not ideal, I have decided that it is time to restore this important function to my Special Investigations unit, albeit in a modified format. As of now, our review of OIS cases will be limited to a legal analysis to determine whether the "shooting"

Sheriff and Chiefs of Police  
Page Two

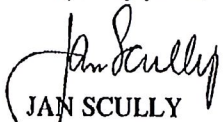
was lawful. We will rely upon the investigative information generated by your agency to conduct such legal review of the event. As before, our review will culminate with a letter to you indicating our legal conclusions regarding the actions of your officer(s).

As you know, our Bureau of Investigation has been seriously impacted by our budget constraints. Having lost 42% of my general fund investigative team, I cannot afford to have an investigator routinely respond to OIS or in-custody death investigations. However, we will continue with our current protocol where your agency designee may contact Chief Investigator Jeff Schiele, if for some extenuating circumstance, you would like us to consider an immediate response. Chief Schiele can be reached at: office [REDACTED]

Finally, in the event of an OIS, I ask that your department contact my Special Investigations Unit supervisor, Michael Blazina, at [REDACTED], at the earliest opportunity after the shooting. This will allow us to log in the case and begin to monitor the circumstances in preparation for the conclusion of your investigation and the forwarding of the investigative packet to this office. On our end, it is my goal that this modified approach for the review of OIS cases and our report back to your agency will be a more expedited process.

If you have any questions or need additional information, don't hesitate to call me.

Very truly yours,

  
JAN SCULLY  
DISTRICT ATTORNEY

JS:gf

SACRAMENTO COUNTY



SHERIFF'S DEPARTMENT

**Scott R. Jones**  
*Sheriff*

August 29, 2013

Honorable Laurie Earl, Presiding Judge  
Sacramento Superior Court  
720 Ninth Street, Department 47  
Sacramento, CA 95814

Re: Sacramento County Grand Jury Report: Investigation: Deputy-Involved Shootings

Dear Judge Earl:

Pursuant to Penal Code sections 933 and 933.05, the following specific responses are respectfully submitted to you regarding the 2012-2013 Grand Jury's Findings and Recommendations on Deputy-Involved Shootings (pp21-30).

**Finding 2. The Grand Jury finds the Sheriff's Department and the OIG do not conduct an analysis of deputy-involved shooting incidents to identify the behavior, policy, or tactical issues that are present. The Grand Jury further finds the Sheriff's Department does not routinely review shooting cases to identify "lessons learned" that can be incorporated in training.**

**Response to Finding 2: Partial Concurrence**

During this Grand Jury investigation the review of incidents by the Sheriff's Use of Force Tactical Review Board was not occurring. However, there were numerous strata of review that was occurring.

The Sheriff, Undersheriff, and/or other members of executive staff respond to every OIS incident to acquire preliminary information about the shooting and scene. Thereafter, generally within 48 hours, Sheriff's Executive Staff receives a presentation by the Homicide Bureau and Professional Standards following their preliminary investigation into the OIS. Once both the criminal and administrative investigations are completed, a final presentation is given to Executive Staff. In addition to examining the officers' actions for each specific incident, the information from these presentations were evaluated by Executive Staff regarding behavior, policy, and tactical issues present that may require changes to policy or training within the Department.



Honorable Laurie Earl  
August 29, 2013  
Page 2

Both the Department's Range Master and administrative investigative staff respond to all officer-involved shooting incidents to participate in the scene walk-through for training and investigative purposes. The information compiled is used to design firearm qualifications and training courses, note trends or commonalities, or identify training or policy deficiencies.

**Recommendation 2. The Grand Jury recommends the Sheriff consider restoring the use-of-force review process in the Department with a specific focus on the identification of behavior, policy, and tactical issues, and "lessons learned." The Grand Jury further recommends the review panel include both tactical and training staff.**

**Response to Recommendation 2: Concur**

In February of 2013, the Sheriff's Department was reorganized, which included the creation of the Professional Standards Division (PSD). This move for the first time placed both the Internal Affairs Bureau and the Training and Education Bureau under the same command, increasing their level of communication and coordination.

The PSD Commander has also restored the Sheriff's Use of Force Tactical Review Board and has revised its policy, adopting recommendations of the Office of the Inspector General (OIG) and adding tactical and training staff to the board. The Tactical Review Board's function is non-disciplinary, focusing on the efficacy of tactics and procedures, controlling policy, training, and equipment, as well as the assessment of any noteworthy trends or patterns.

**Finding 3. The Grand Jury finds that there is insufficient communication between the Office of the Inspector General and the administration of the Sheriff's Department concerning the "lessons learned" from the shooting cases.**

**Response to Finding 3: Concur**

The Sheriff's Department has notified the OIG immediately following every officer-involved shooting incident, allowing for response and participation in scene walk-throughs at the discretion of the OIG. The OIG is updated frequently during and at the completion of all officer-involved shooting investigations. Communicating "lessons learned" from officer-involved shooting incidents had not been previously identified as a goal of the OIG, but the OIG has unfettered access to the investigation and information contained therein at all times.

**Recommendation 3. The Grand Jury recommends that the Inspector General adopt a more proactive review of deputy-involved shooting incidents, beyond simply reviewing the findings of the Department's internal investigation. Rather, the Inspector General should review each incident with the goal of communicating "lessons learned" to the Department.**

Honorable Laurie Earl  
August 29, 2013  
Page 3

**Response to Recommendation 3: Concur**

The Sheriff's Department will continue to notify the OIG following every officer-involved shooting incident, allowing for response and participation in scene walk-throughs at the discretion of the OIG. The OIG will continue to be updated frequently during and at the completion of all officer-involved shooting investigations. If it is determined that the goal of the OIG's review should include communicating "lesson learned", the Sheriff's Department welcomes that additional input.

**Finding 4. The Grand Jury finds the policies and orders of the SSD concerning use-of-force and deadly force are relatively generic and not comprehensive.**

**Response to Finding 4: Concur**

While developing a Department-wide Use of Force update training course in 2012, the Sheriff's Department recognized these policies required review and revision.

**Recommendation 4. The Grand Jury recommends the Sheriff initiate a review of the orders and policies concerning the use-of-force and deadly force, and revise those orders as appropriate and legally competent to specifically address topics that are not addressed in the current policies (e.g., shooting at a moving vehicle). The Grand Jury further recommends the Sheriff consider the inclusion of use-of-force policy in tactical and firearms training courses developed and presented in the Department.**

**Response to Recommendation 4: Concur**

The Sheriff's Department's Use of Force and Use of Firearms General Orders were both revised in December 2012. Modifications were made to accurately reflect industry standards, identified best practices, and current case law. Sample policies from other California agencies, the Police Executive Research Forum (PERF), Americans for Effective Law Enforcement (AELE), and Lixipol LLC were used to develop the revisions.

The topic of shooting at or from a moving vehicle was addressed in the prior Use of Firearms policy, which prohibited it "unless there is reasonable assurance that such firing will not endanger innocent persons". The revised version has been expanded in this area to emphasize the fact that this is inherently dangerous and often times ineffective. It also provides direction, where possible, to avoid assuming a position in the path of a vehicle and to consider moving out of the path to mitigate the threat.

The Use of Force and Use of Firearms policies will be incorporated in tactical and firearms training courses developed and presented in the Department.



Honorable Laurie Earl  
August 29, 2013  
Page 4

Please note, that for the purposes of these responses, there is currently no Inspector General for the County, so his/her involvement or role is based on historic practices and/or future intent. Should you have additional questions, or require further information, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in cursive script that reads "Scott Jones". The signature is written in dark ink and is positioned above the printed name.

SCOTT JONES, SHERIFF

cc: Dave Irish, CPA, Director of Finance  
Sacramento County Grand Jury