



OFFICE OF THE
DISTRICT ATTORNEY
SACRAMENTO COUNTY

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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



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MEDIA ADVISORY

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.



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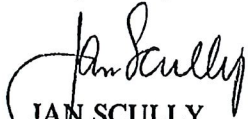
was lawful. We will rely upon the investigative information generated by your agency to conduct such legal review of the event. As before, our review will culminate with a letter to you indicating our legal conclusions regarding the actions of your officer(s).

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