

**SAN BERNARDINO COUNTY
PROBATION DEPARTMENT PROCEDURE**

Officer Involved Shooting & Discharge of a Firearm

Authority:

Tracy Reece, Chief Probation Officer

Purpose:

To establish general guidelines for the use of firearms, reporting and investigating officer involved shootings, Probation Shooting Review Board processes, and other requirements in the event of a discharge.

Definitions:

Department Issued Firearm (firearm): A firearm issued to a sworn officer by the department Range Master and authorized by the Chief Probation Officer.

On Duty Work Hours: Department paid work hours to include regular duty, overtime, on call and stand by time.

Responsibilities – All Armed Officers:

- I. Displaying and Discharging of Department Issued Firearms
 - A. Before using their firearm, Probation Officers shall identify themselves and state their intent, where feasible. For example: "Probation! Stop! Get down on the ground! Face down! Place your arms out to the side of your body! Don't move!"
 - B. Probation Officers shall only draw or exhibit their firearm when circumstances are present that cause the officer to believe that it may be necessary to use the weapon in conformance with all applicable laws, County and Department policies, and procedures.
 1. Warning shots shall not be fired.
 2. Officers should not fire their weapons at or from a moving vehicle.
 3. Firearms should not be discharged when it appears likely that an innocent person may be injured.
- II. Unintentional Discharge of a Firearm

An unintentional discharge is that which occurs without the intention of the officer operating the firearm. Whenever an unintentional discharge occurs:

 - A. The weapon shall be secured by the Range Master/Assistant Range Master or supervisor at the scene in order for it to be inspected.
 - B. The officer operating the firearm when it discharged shall immediately, or as soon as safety permits, prepare a report regarding the incident. Witnesses shall also prepare reports regarding their observations of the incident. Those reports shall be submitted to the supervisor.
 - C. The firearm shall be inspected by an Armorer to determine whether it is damaged and/or if a mechanical malfunction occurred. An inspection report shall be prepared before the end of the next working day and submitted to the Range Master/Assistant Range Master.
- III. Officer Involved Shooting (Animal Related)

When an officer intentionally discharges a firearm resulting in the injury or death of an animal, the probation officer shall, as soon as safety permits:

 - A. Assess the situation, ensure the area is safe, and attempt to determine the condition of the animal.

- B. Notify dispatch of the nature of the incident, example: "92D10. Be advised I just shot a dog. Please notify a Probation Supervisor, local law enforcement, and animal control."
- C. Contact his/her immediate supervisor who shall make chain of command notifications and may respond to the scene when appropriate.
- D. Contact animal control for disposition of carcass or medical attention for injured animal.
- E. Contact the owner of the animal if available.
- F. Complete an incident report upon return to the office but before the end of shift unless otherwise directed by a supervisor.

IV. Officer Involved Shooting (Non-Animal Related)

Whenever a Probation Officer intentionally or unintentionally discharges a firearm in the course of his or her employment, except on a supervised range in an approved training exercise, as soon as safety permits, the Probation Officer(s) not involved in the discharge shall immediately:

- A. Assess the situation and determine the condition of any injured person.
- B. Notify dispatch of the nature of the incident, example: "92D10 shots fired, one subject hit. All officers are Code 4. Request Emergency Medical Assistance, a Probation Supervisor, and local law enforcement respond to the scene."
- C. Ensure that first aid is rendered, if appropriate.
- D. Secure the scene of the incident and remain on scene until local law enforcement arrives.
- E. When a Probation Supervisor arrives on scene, he/she shall notify the Sheriff's Civil Liabilities Division and shall make chain of command notifications.
- F. Remain at the scene until dismissed by local law enforcement and/or the department representative, unless it is unsafe to do so, or in the event the Probation Officer is injured and needs medical treatment. The Probation Officer shall cooperate fully with any investigation related to the incident. This requirement for cooperation, however, is not intended to disregard or eliminate any legal rights the involved Probation Officer might have under the applicable Public Safety Officer's Procedural Bill of Rights Act, found in Government Code §3300 *et seq.* nor any other rights afforded by operative law.
- G. Protect the weapon for examination and submit the weapon to the appropriate investigator upon request.
- H. The law enforcement supervisor at the scene shall be responsible for the evidence.
- I. The involved officer(s) shall be advised that the incident is not to be discussed except with authorized personnel or representatives. Any request for legal representation shall be accommodated when possible. Only discussions with licensed attorneys shall be considered privileged as attorney/client communications.

V. Departmental Follow-up

- A. When a supervisor and their Director and/or the On-Call Director is notified of an Officer Involved Shooting by a Probation Officer resulting in injury or death, the persons notified and/or his or her designee shall be responsible for the coordination of actions required by the incident. They shall respond to the scene of the incident and ensure the following responsibilities are accomplished unless a superior officer assumes control of the incident.
- B. Notify Administration as required by the chain of command.
 - 1. With due consideration for the preservation of life and the arrest of the suspect, it shall be the responsibility of the Probation personnel responding to preserve all the evidence until properly relieved by local law enforcement officers and/or other appropriate investigative personnel.
 - 2. Probation personnel responding to the scene shall cooperate with the local law enforcement officer's investigation.
 - 3. The crime scene should be protected, witnesses identified, and statements offered by

- witnesses documented.
- C. If appropriate, the Probation Officer who discharged the weapon shall be relieved of his/her firearm in a discreet manner when safe and reasonable. The officer's weapon should be replaced immediately as long as the officer is not injured or disabled. The firearm should be rendered safe and should be secured. The probation personnel responding should avoid touching the firearm as much as possible.
 - D. All information gathered by responding personnel should be given as soon as possible to local law enforcement or other appropriate investigative personnel.
 - E. If necessary, additional Probation Department personnel should be called to the scene to assist.
 - F. When the discharge of a firearm by a Probation Officer results in injury or death to another person, the officer shall be immediately relieved of duties and shall be placed on administrative leave, without loss of pay or benefits, for a period of 5 days, or until authorized to return to duty by the Chief Probation Officer. Neither action implies improper conduct by the officer.
 - G. If the incident involves the injury or death of a person, the Civil Liabilities or Homicide Unit of the San Bernardino Sheriff's Department will be responsible for the written report. In this instance, the Probation Officer who discharged the firearm will not write a report.

VI. Peer Support/Counseling

- A. A member or members of the Peer Support Team may be dispatched to the scene at the discretion of the responding Supervisor/Division Director and be available to assist on an ongoing basis unless the officer(s) decline their assistance.
- B. A member of the Peer Support Team may be assigned to remain with the Probation Officer(s) involved in the shooting and provide aid and assistance without discussing the circumstances of the incident. If a Probation Officer involved in the shooting needs transportation, a member of the Peer Support Team shall be assigned to provide transportation. The Probation Officer involved should avoid driving. It is imperative that peer supporters offer comfort and support without compromising the investigation in any way, as there is no legal privilege to communications with peer supporters. The contract counseling agency may also be contacted for assistance by the Director in charge when appropriate.
- C. Any Probation Officer involved in an incident involving the discharge of a firearm, even if the discharge of the firearm was by another officer, which results in injury or death of another person, shall undergo a debriefing with a designated psychologist and/or a person certified through Critical Incident Stress Management within 48 hours of the incident. The debriefing shall not be related to any departmental investigation of the incident.
- D. A member or members of the Peer Support Team shall be available to assist officers on scene and upon return to their work assignments.
- E. Before a Probation Officer returns to work from administrative or other leave resulting from a shooting incident, he or she may be required to undergo a psychological evaluation at the discretion of the Chief Probation Officer.

VII. Media Relations

- A. The Probation Officer who discharged the firearm shall not discuss the incident with anyone except persons directly involved in the investigation and/or their attorney or representative.
- B. Only the Chief Probation Officer or designee (such as the Public Information Officer) shall respond to media inquiries with respect to departmental shootings.
- C. Department employees receiving inquiries from the media, general public, or others not directly involved in the investigation shall immediately direct those inquiries to the Probation Department Public Information Officer.

VIII. California Department of Justice (DOJ) Notification:

Pursuant to Government Code Section 12525.3, a state prosecutor shall investigate incidents of an officer-involved shooting resulting in the death of an unarmed civilian. All law enforcement agencies shall immediately notify the DOJ when they have an incident of an officer-involved shooting resulting in the death of an unarmed civilian. When situations arise and it is undetermined if the civilian was unarmed, a notification to DOJ is still requested. The Los Angeles Regional Criminal Information Clearinghouse (LA CLEAR) will be the central point of contact for all officer-involved shooting incident notifications. They can be contacted at: [REDACTED]

A. It shall be the responsibility of the Assistant Chief Probation Officer or their designee to contact the DOJ in the aforementioned circumstances.

IX. Shooting Review Board

A. At the direction of the Chief Probation Officer or their designee a Shooting Review Board shall be convened to conduct an evaluation of the specified incident.

B. The board, at a minimum, shall be composed of the following sworn personnel:

1. The Assistant Chief Probation Officer or a Deputy Chief Probation Officer, who shall act as the chairperson.
2. A Division Director or Supervising Probation Officer.
3. The Range Master or their designee.

C. It shall be the purpose of the Shooting Review Board to assess the incident as to training, tactics, supervision, Department policy/procedure, etc. and to make recommendations to the Chief Probation Officer in relation to such.

D. At the conclusion of the review, the Board chairperson shall submit a written report to the Chief Probation Officer including the following information:

1. A brief summary of the incident.
2. The Board's recommendations relating to training, tactical, and supervision considerations.
3. The Board's recommendations relating to Department policy/procedural considerations.
4. The Board's recommendation as to whether the incident was in compliance with Department policy/procedure or if the matter should be referred to the Professional Standards Division for further review.

Inspections:

Refer to the Policy and Procedure Inspection Matrix

Foundation:

Peace Officer Bill of Rights (POBOR)

Government Code Section 196, 197.1-.4, 3300-3313, 8597, 8598, 8617, 12525.3

Penal Code 830.5, 832

References:

Arming

Department Investigations/Critical Incident Reviews

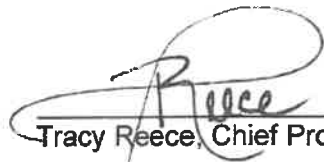
Force Options: Use of Force and Reporting Requirements for Community Corrections

Use of Force Administrative Review

Use of Force Guidelines Policy

Officer Involved Shooting & Discharge of a Firearm

Issued by:


Tracy Reece, Chief Probation Officer

Date:

May 14, 2012

Revised:

July 12, 2022

Attachments:

A – Officer Involved Shooting Checklist

B – Officer Involved Shooting Checklist for Immediate Supervisors/Superior Officers

C – CA DOJ Division of Law Enforcement Information Bulletin No. 2021-DLE-03

OFFICER INVOLVED SHOOTING CHECKLIST


1. If a person was shot or shot at, the officer(s) shall:
 - a. Remain at the scene if safe
 - b. Advise dispatch of shooting and any injuries or death
 - c. Request local law enforcement respond to the scene
 - d. Request medical aid if appropriate
 - e. Request their immediate Supervisor or designee respond to the scene
 - f. Provide first aid if appropriate
 - g. Provide a public safety statement to dispatch
 - h. Provide a public safety statement to responding officers
 - i. Seal the perimeter for outstanding subjects and secure the scene for evidence
 - j. Protect the firearm for examination and submit the firearm to investigators
 - k. Do not discuss the incident with others except for legal representation

2. If animals were shot or shot at, the officer(s) shall:
 - a. Remain at the scene if safe
 - b. Advise dispatch of shooting and any injuries or death
 - c. Request local law enforcement respond to the scene if appropriate
 - d. Request medical aid and animal control if appropriate
 - e. Request their immediate Supervisor or designee respond to the scene
 - f. Provide a public safety statement to dispatch
 - g. Provide a public safety statement to responding officers
 - h. Seal the perimeter for outstanding subjects and secure the scene for evidence
 - i. Protect the firearm for examination and submit the firearm to the Range Master or designee for inspection as soon as possible and in all cases prior to resuming activity/duties with the firearm
 - j. Obtain statement from animal owner if able to do so
 - k. Obtain history from animal control if able to do so
 - l. Complete an incident report, including injuries and property damage

3. If a firearm was discharged but no person or animal was shot or shot at, officer(s) shall
 - a. Remain at the scene if safe
 - b. Advise dispatch of shooting
 - c. Request local law enforcement respond to the scene if appropriate
 - d. Request their immediate Supervisor or designee respond to the scene
 - e. Provide a public safety statement to dispatch
 - f. Provide a public safety statement to responding officers
 - g. Seal the perimeter for outstanding subjects and secure the scene for evidence
 - h. Protect the firearm for examination and submit the firearm to the Range Master or designee for inspection as soon as possible and in all cases prior to resuming activity/duties with the firearm.
 - i. Complete an incident report, including property damage

OFFICER INVOLVED SHOOTING CHECKLIST for IMMEDIATE SUPERVISORS/SUPERIOR OFFICERS

- First: Gather Information**
 - Obtain basic information from the officer notifying you. Where are they? Who is on-scene? Are there injuries? Is the scene secure? Have dispatch, medical aid and local law enforcement been notified?
- Second: Provide Instructions**
 - Assign an on-scene officer to maintain integrity of the scene until you arrive. Tell them to render first aid, seal the perimeter and preserve evidence, if appropriate.
- Third: Notify Others**
 - Contact your immediate supervisor or designee, your Director or the On-Call Director, the Sheriff's Department Civil Liabilities [REDACTED], and the Peer Support Coordinator [REDACTED]
- Fourth: Respond to the Scene**
 - Assess the situation. Check for injuries and ensure medical attention has been provided. If injured parties (officer, suspect, civilian) have been moved, where are they now?
 - Request the appropriate number of probation department staff respond to the scene. Care should be taken to preserve the integrity of all physical evidence present on the officer, equipment or clothing (e.g. blood, fingerprints, etc.) until investigators or lab personnel can properly retrieve it.
 - Obtain a brief overview of the situation from an officer who did not discharge a firearm. If there are no officers available who did not discharge a firearm, attempt to obtain a brief voluntary overview from one officer who did discharge a firearm. If necessary, you may administratively order any officer from the department to immediately provide the public safety information necessary to secure the scene and detain suspects. Public safety information is limited to outstanding suspect information, number and direction of shots fired, parameters of the incident scene, identity of known witnesses and similar information. Absent a voluntary statement from an officer, do not attempt to order an officer to provide information other than the public safety information described above.
 - Available witnesses should be identified and statements offered by the witnesses documented. Obtain contact information for follow-up interviews. All information gathered by responding personnel should be given as soon as possible to local law enforcement or other appropriate investigative personnel.
 - You are responsible for the scene unless a superior officer arrives on-scene and assumes control.
- Fifth: Update Others**
 - Ensure all relevant information has been provided to Dispatch, responding officers, local law enforcement, and your chain of command.
 - If the shooting involved a person, an investigator will take possession of the firearm(s). Do not request any written reports (such as a critical incident report) from the shooter(s) or ask them questions aside from those required for the "Public Safety Statement".
 - Name of lead investigator and report # _____
 - In cases not involving persons, such as animals or unintentional discharges, immediately notify the Range Master at [REDACTED]. The Range Master or Armorer will take possession of the firearm(s) for inspection and determine if they are damaged or if a mechanical malfunction occurred. An inspection report shall be prepared before the end of the next working day.
- Sixth: Leave the Scene**
 - As soon as practical, officers involved in the shooting should be transported to a local probation department building and given an administrative order not to discuss the incident.
 - Direct media questions, citizen complaints, etc. to the person designated by Administration.
- Seventh: Follow Up**
 - A debriefing is mandatory for all involved.
 - Obtain critical incident reports from other officers involved who did not discharge a firearm. Complete Administrative Incident Review portion of Incident Report. Complete SIC paperwork, Workman's Comp. and Risk Management Paperwork (BBP exposure form, etc) if necessary. Ensure shooter(s) notified of administrative leave for up to five (5) days or until authorized to return.

<p>California Department of Justice DIVISION OF LAW ENFORCEMENT John D. Marsh, Acting Chief</p> 	<h1>INFORMATION BULLETIN</h1>	
<p><i>Subject:</i></p> <p>Assembly Bill (AB) 1506 Definitions and Law Enforcement Agency's Notification Responsibility</p>	<p><i>No.</i></p> <p>2021-DLE-03</p> <p><i>Date:</i></p> <p>6/24/2021</p>	<p><i>Contact for information:</i></p> <p>John D. Marsh, Acting Chief Division of Law Enforcement [REDACTED]</p>

TO: ALL DISTRICT ATTORNEYS, CHIEFS OF POLICE, SHERIFFS, AND STATE LAW ENFORCEMENT AGENCIES

Effective July 1, 2021, pursuant to AB 1506, the Department of Justice (DOJ) is required to investigate “incidents of an officer-involved shooting resulting in the death of an unarmed civilian.” (Gov. Code, § 12525.3, subd. (b)(1).) The following is DOJ’s understanding of the terms used in this statute, and is to be used as guidance for all law enforcement partners in determining whether a case falls within the ambit of AB 1506. These definitions are meant to apply *only* in the context of AB 1506, and these terms may have different meanings in other contexts or in different statutes.

Notwithstanding these definitions, DOJ may elect to assume jurisdiction in cases where jurisdiction is unclear, or based on other extenuating circumstances, as determined by the Attorney General. (See Cal. Const., art V, § 13 [Attorney General is “chief law officer of the State” and has a duty “to see that the laws of the State are uniformly and adequately enforced”].)

1. “Officer-involved”

A shooting is “officer-involved” if the death to the unarmed civilian is caused by a California peace officer, within the meaning of Penal Code section 830, acting under color of authority. All shootings committed by officers while on duty are officer-involved shootings. Shootings committed by officers while off-duty are considered officer-involved shootings only if the officer is acting under color of authority.

Officers are acting under “color of authority” when they are performing an act that is made possible only because they are clothed with the authority of law, or when they are acting under pretense of law. Conversely, officers are not acting under “color of authority” when they commit private acts in furtherance of personal pursuits. Shootings by correctional officers as defined in Penal Code section 830.55 are excluded.

2. “Shooting”

A “shooting” is the discharge of a metal projectile by a firearm. A “firearm” is a “device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion.” (Pen. Code, § 16520.) A “shooting” does not include incidents involving

the use of electronic control devices, stun guns, BB, pellet, air, gas-powered guns, or weapons that discharge rubber bullets or beanbags.

3. “Unarmed civilian”

An “unarmed civilian” is “anyone who is not in possession of a deadly weapon.” (Gov. Code, § 12525.3, subd. (a)(2).)

4. “Possession”

A civilian is in “possession” if the weapon is under the civilian’s dominion and control at the time of the shooting. Possession usually requires that the weapon is available for use. Where a civilian attempts to take control of an officer’s firearm, the civilian is not in possession unless the officer loses control of the firearm.

5. “Deadly weapon”

“‘Deadly weapon’ includes, but is not limited to, any loaded weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged, or a switchblade knife, pilum, ballistic knife, metal knuckle knife, dagger, billy, blackjack, plastic knuckles, or metal knuckles.” (Gov. Code, § 12525.3, subd. (a)(1).) All firearms, and BB/pellet guns, even if unloaded or inoperable, are deadly weapons.

Objects that have a legitimate non-weapon purposes are considered deadly weapons only when, based on all the circumstances, they are actually being used in a manner likely to produce death or great bodily injury. The following are examples of objects that have been considered a deadly weapon when used in that manner: knives, box cutters, screwdrivers, bottles, chains, automobiles, rocks, razor blades, and iron bars.

Replica firearms are not considered deadly weapons unless they are used in some particular manner likely to produce death or great bodily injury (e.g., as a bludgeon).

6. “Death”

Death occurs when “[a]n individual ... has sustained either (1) irreversible cessation of circulatory and respiratory functions, or (2) irreversible cessation of all functions of the entire brain, including the brain stem[.]” (Health & Saf. Code, § 7180.) DOJ may assume responsibility for cases where death appears to be imminent.

Law Enforcement Agency’s (LEA) Notification Responsibility

Effective July 1, 2021, immediately notify the DOJ when the LEA has an incident of an officer-involved shooting resulting in the death of an unarmed civilian. When situations arise and it is undetermined if the civilian was unarmed, a notification to DOJ is still requested. The Los Angeles Regional Criminal Information Clearinghouse (LA CLEAR) will be the central point of contact for all officer-involved shooting incident notifications: [REDACTED]