



Sacramento County District Attorney's Office

ANNE MARIE SCHUBERT
District Attorney

Stephen J. Grippi
Chief Deputy

Michael A. Neves
Assistant District Attorney

Officer-Involved Shooting FAQs Sacramento County District Attorney's Office

The Sacramento County District Attorney's Office has recently received multiple inquiries for information and comments regarding officer-involved shootings in general and relating to specific incidents.

The District Attorney, her assistants, and all of her deputies are bound by the California Rules of Professional Conduct for attorneys and the State Bar Act. In order to ensure adherence to these standards, it is the policy and practice of this office to refrain from public comment related to ongoing investigations. However, the nature and scope of the recent inquiries has highlighted the need for clarification of the general role of the District Attorney's Office in officer-involved use of force investigations in this county.

Does the District Attorney's Office have a specific protocol to investigate and review officer-involved shootings?

Yes. This protocol is posted on the Sacramento County District Attorney's Office website (www.sacda.org) under the heading "Police Use of Force."

What is the District Attorney's role in officer-involved use of force investigations?

The District Attorney is responsible for prosecution of violations of California laws. Therefore, the District Attorney has the authority and responsibility to make criminal charging decisions in officer-involved incidents. In Sacramento County, when an officer shoots an individual causing injury or death, or when an officer uses force resulting in the death of a person in custody or under control of law enforcement, the District Attorney's Office conducts an independent review to determine whether the officer should be charged with a criminal offense. Experienced Criminal Investigators employed by the District Attorney parallel the investigation conducted by law enforcement. By agreement, they are afforded contemporaneous access to witness interviews, the shooting/use of force scene, and the evidence documentation and collection. The District Attorney's role thereafter is to assess whether any applicable crimes have occurred and then analyze whether there is sufficient evidence to proceed with a criminal prosecution.

Does the District Attorney's Office evaluate and render an opinion on tactical decisions or procedures employed by the officers?

No. The District Attorney's Office does not review these types of shootings or use of force incidents to determine whether the officer could have taken some other action, or used some other tactic, in addressing the situation. In addition, we do not review whether the agency could

be civilly liable or whether any policy or procedure of the agency is the “best practice” for this type of incident. These are all valid areas for review, discussion, and potential outcome improvements. However, our review is strictly limited to an analysis of the action the officer(s) actually took and whether that action is a prosecutable crime under the law.

What, then, is the standard of proof for the prosecution of law enforcement officers and how is that standard applied in determining whether charges should be filed?

The standard of proof is exactly the same for law enforcement officers as it is for every other person investigated for potential criminal conduct. That is, the prosecution must prove, and a unanimous jury of twelve members must agree, that the individual charged is guilty beyond a reasonable doubt. This presumption of innocence and the proof beyond a reasonable doubt standard are fundamentally rooted concepts in the American system of law.

Uniform Crime Charging Standards mandate that prosecutors file charges only when, after a thorough consideration of all pertinent data, there is a reasonable likelihood of conviction by an objective factfinder weighing the admissible evidence, including the most plausible and reasonably foreseeable defense that could be raised at trial. Evidence that the prosecutor knows will be inadmissible at trial under the California Evidence Code should not be considered in this determination. The charging mandate described above is equally applicable to the lowest of criminal offenses as it is to the most heinous.

We cannot simply charge a person with a criminal offense when there is insufficient evidence to do so and then let a jury sort out whether he/she should be convicted. Under the law and our code of ethics, we must be sufficiently convinced that a unanimous jury would find that a crime was committed by the person before we can file charges.

How is the public at large informed of the outcome of the District Attorney’s review?

In Sacramento County, if the District Attorney’s Office concludes that there is sufficient reason to believe that the filing standard described above has been met, the officer will be charged. If the District Attorney’s Office determines that the officer’s conduct was legally justified, or that there is insufficient reason to believe that a jury would convict the officer under the circumstances, the District Attorney’s Office prepares a review letter detailing our factual findings and our legal analysis. The review letter is published, posted on our website, and otherwise made available to the public.

What is the expected timeline for completion of the investigation, charging determination, and dissemination of the findings?

We strive to complete the review within 90 days of receiving all of the related reports and materials. We must balance our desire to complete these investigation reviews in a timely manner with the overarching need to ensure any conclusions we reach are the result of a thorough and methodical evaluation of the facts and the law.

Is there a specific person or special team in the District Attorney's Office that evaluates these officer involved use of force incidents?

When the District Attorney's Office receives a call-out to one of these incidents, regardless of the time of day, experienced Criminal Investigators are dispatched to the scene. Thereafter, the initial review is conducted by our Justice and Special Operations Division. Each incident is then reviewed by senior Executive Management staff members with collectively over 60 years of prosecution experience, and by the District Attorney herself.