



## Attorney General Guidance on Investigations of “AB1506 Incidents” (Officer-Involved Shootings of Unarmed Civilians)

Effective July 1, 2021, the California Department of Justice is required to investigate all officer-involved shootings that result in the death of an “unarmed civilian” (AB1506). DOJ has issued guidelines in an effort to clarify the definitions and investigative protocols for incidents that fall within the scope of AB 1506. The below is a summary of some of the important points in the guidelines.

**Definitions:** An “**AB 1506 incident**” is any officer-involved shooting resulting in the death of an unarmed civilian caused by a California peace officer (Penal Code §830-832.19) acting under the color of authority. A “**shooting**” is the discharge of a metal projectile by a firearm. A “shooting” does NOT include incidents involving electronic control devices, stun guns, BB, pellet, air, gas-powered guns, rubber bullets, or beanbags. 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”. (Penal Code §16520.)

An “**unarmed civilian**” is “anyone who is not in possession of a deadly weapon” (Govt Code §12525.3(a)(2).) A civilian is in “**possession**” if the weapon is under the civilian’s dominion and control at the time of the shooting. For example, as presently defined, in an instance where a civilian attempts to take control of an officer’s firearm, unless the officer loses control of the firearm, the civilian would be considered “unarmed”.

“**Deadly weapon**” includes any loaded weapon from which a shot, readily capable of producing death or other serious physical injury may be discharged, a switchblade knife, ballistic knife, dagger, or metal knuckles. (Govt Code §12525.3(a)(1).) All firearms and bb/pellet guns, even if unloaded or inoperable, are deadly weapons.

Objects that have legitimate non-weapon purposes (i.e. baseball bat) are considered deadly weapons ONLY when, based on all circumstances, they are actually being used in a manner likely to produce death or great bodily injury (GBI). Examples of objects that have been considered deadly weapons when used in a manner likely to produce death or GBI include knives, box cutters, screwdrivers, bottles, rocks, and iron bars. Replica firearms are NOT considered deadly weapons unless used in some particular manner likely to produce death or GBI.

The Investigation: The investigative protocol requires immediate notification to the DOJ when the agency has an OIS resulting in the death of an unarmed civilian. In shootings where it is unclear whether the civilian was “unarmed”, DOJ still “requests” notification. Additionally, DOJ can assume jurisdiction over cases of interest “based on the extenuating circumstances, as determined by the Attorney General”.



**Interviews:** The protocol suggests interviews of involved officers take place at a mutually convenient location, date, and time; shall be audio recorded and should be video recorded. The assigned Deputy Attorney General and Involved Officer's attorney representative are permitted to monitor the interview, if not physically present.

Initial interviews of involved officers will take place **before** they have reviewed any audio/video recordings, unless agency policy, procedures, and/or union agreements permit viewing prior to statements.

The investigators will conduct initial interviews with the involved officers and critical witnesses in a "condensed fashion" and will conduct follow-up interviews within 72 hours.

**Walkthrough** -- investigators will coordinate comprehensive scene walkthroughs. If the officer requests to be compelled to provide a scene walkthrough, the investigators will coordinate the process with the Employing Agency and the statement then cannot be used against you.

**Evidence** - investigators will work with the Employing Agency to obtain a voluntary blood/urine sample and breath analysis for alcohol and/or drug testing. Since the DOJ cannot compel blood, breath, or urine without probable cause and a warrant, nor can the DOJ force the Employing Agency to compel its officers to provide such evidence, it is not recommended that a sample be provided voluntarily.

## **Takeaway**

Many of the protocols addressed herein are against best practices in the handling of OIS investigations.

Since the AB1505 investigative protocols call for consideration for the respective law enforcement agency's policy, procedure, and/or union agreements, it is recommended that your association and employer meet to discuss the impact of the protocols on your Department's current OIS policies.

## **Stay Safe and Stay Informed!**

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