

## WHITE PAGE

### SUMMARY OF USE OF FORCE REVIEW PROCESS

There have been more than a fair share of demands for police reform, transparency, and accountability. Most of those calling for change, are unfamiliar with the extensive process involved in reviewing significant police use of force (UoF) incidents.

This summary serves as an overview to familiarize interested parties with the review process at the Los Angeles Police Department (LAPD). LAPD serves as a leading model for agencies across the country on investigating and reviewing use of force incidents and holding its officers accountable to the high standards of the organization.

After becoming familiar with the processes currently in place, you can decide for yourself what areas, if any, you would like to see additional levels of review implemented. You can draw your own educated opinions and insights as opposed to being influenced, oftentimes incorrectly, by the mainstream narrative.

#### **Organization Structure**

The **Board of Police Commissioners** is the head of the Los Angeles Police Department (LAPD or Department), setting policies for the Department and overseeing its operations. It is comprised of 5 civilian volunteers, appointed by the Mayor and confirmed by the City Council, who serve a maximum of 2 five-year terms.

The **Chief of Police (COP)** is the general manager of the LAPD and is responsible for the planning, administration, and day-to-day operation of the Department. The COP is appointed by the Mayor and confirmed by the Board of Police Commissioners and the City Council. COPs are eligible to serve a maximum of 2 five-year terms.

The **Office of the Inspector General (OIG)** is an independent entity responsible for monitoring, auditing, and investigating the Department. The Inspector General reports directly to the Board of Police Commissioners and is not in the chain-of-command of the COP. Among other duties, the OIG oversees the LAPD's investigations into Categorical Uses of Force by officers.

The mission of the Office of the Inspector General is to: 1) provide strong, independent, and effective oversight of the LAPD; 2) ensure that all LAPD employees act with honesty, dignity, and respect toward the public; and 3) conduct community outreach to educate the public about the OIG, the Board of Police Commissioners, and the LAPD. <sup>1</sup>

#### **Categorical Use of Force**

What constitutes a **Categorical (or significant) Use of Force (CUOF)**?

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<sup>1</sup> [https://a27e0481-a3d0-44b8-8142-1376cfbb6e32.filesusr.com/ugd/b2dd23\\_db5916bc1135497aa93495e8827d6440.pdf](https://a27e0481-a3d0-44b8-8142-1376cfbb6e32.filesusr.com/ugd/b2dd23_db5916bc1135497aa93495e8827d6440.pdf)

Any incident involving the use of deadly force by an officer, as well as any incident in which a person is admitted to a hospital as the result of a use of force, or dies while in police custody.

**Deadly force** is any use of force that creates a substantial risk of death or serious bodily injury. This includes officer-involved shootings, head-strikes with an impact weapon, and neck restraints.<sup>2</sup>

All other use of force incidents are considered non-categorical.

The following is a summary of the **Investigative Process**. This process can take up to one year to complete and contains numerous levels of review.

### The On-Scene Investigation

After involvement in a CUOF incident, involved officers are immediately separated from each other. Separation is insured and monitored by responding supervisors.

The **Force Investigation Division (FID)** is responsible for the investigation of all incidents involving the use of deadly force by an LAPD officer as well as all use of force resulting in an injury requiring hospitalization. Investigative responsibility of FID also includes all deaths while the arrested or detained person is in the custodial care of the LAPD, accidental shootings as well as animal shootings and other investigations as directed by the Chief of Detectives.

Unlike normal investigative divisions of the LAPD, all FID investigators are Detective supervisors or Sergeants, meaning Detective II, Detective III, Sergeant I, or Sergeant I.<sup>3</sup> FID investigators consist of tenured and experienced detectives, many with homicide and other complex investigative experience.

The mission of FID is fact finding only. Investigations focus on obtaining and reporting thorough and complete investigations. FID investigations do not include conclusions or opinions. FID investigations simply report on the facts of the case.

To accomplish this task, FID is currently organized into three investigative sections. Additionally, an Administrative Section incorporating a special projects unit provides the necessary administrative review, oversight, and compliance with related projects, inquiries, and audits.

Administrative A Section;

Administrative B Section;

Administrative C Section;

Criminal Apprehension Team; and,

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<sup>2</sup> See Footnote No. 1

<sup>3</sup> [https://majorcrimesdivision.fandom.com/wiki/Force\\_Investigation\\_Division](https://majorcrimesdivision.fandom.com/wiki/Force_Investigation_Division)

Investigation Support Section <sup>4</sup>

Responding **Administrative Sections A-C**, are divided into two distinct sub-sections or teams, Administrative and Criminal.

Administrative teams investigate administrative policy matters. Typically, officers involved in a CUOF are judged on several categories, (1) tactics leading up to the incident (2) drawing and exhibiting of the firearm (3) the UoF itself (4) tactics after the incident, and (5) utilization of de-escalation techniques, if applicable. Administrative investigations determine policy findings and address whether the officers actions were either in or out of policy. They are administrative by nature. Policy violations have a range of consequences from admonishment, training, suspension, or removal from office. Administrative investigations are subject to established labor law practices, Police Officer Bill of Rights (POBR) protections, and union Memorandums of Understanding (MOU).

Criminal teams investigate any criminal liability, or wrong-doing, on the part of the officers regarding and unlawful use of force. If the UoF was unlawful, the related admissible evidence will be gathered and presented to the District Attorney's Office, Justice Integrity Division (JSID), for criminal prosecution against the involved officer(s).

The **Criminal Apprehension Team (CAT)** is responsible for the apprehension and prosecution of any criminal suspect(s) for all related crimes against the involved officer(s) and/or other victims.

**Investigative Support Section (ISS)** are specially trained officers who utilize the latest crime scene technology to process and document CUOF related crime scenes.

**Police Commission Office of Inspector General.** Special Investigators assigned to the **OIG** also respond to the on-scene investigations. The function of the OIG investigators is "watchdog" in nature.

The OIG is responsible for overseeing investigations of all CUOF. <sup>5</sup>

OIG investigators monitor the FID investigators and investigation to insure the integrity of the investigative process and compliance with all internal policies and procedures.

The **District Attorney's Office, Justice System Integrity Division (JSID)**, investigates and prosecutes criminal conduct by persons who work within the justice system in Los Angeles County, including attorneys, judges, court employees and law enforcement personnel. <sup>6</sup>

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<sup>4</sup> <https://www.lapdonline.org/office-of-the-chief-of-police/professional-standards-bureau/force-investigations-division/>

<sup>5</sup> <https://www.oig.lacity.org/use-of-force-section>

<sup>6</sup> [https://search.yahoo.com/yhs/search?hspart=iba&hsimp=yhs-syn&type=asbw\\_8923\\_CHW\\_US\\_tid20049&p=Los%20Angeles%20District%20Attorney%27s%20Office%20Justice%20System%20Integrity%20Team&param1=S5jcSQTXTSTB%2F1a3yXgqqonrXU6S5zpnJeVcB6cuPAFci08EWQK9Ap%2F2JrII0%2F0TI&param2=9dUI1n2R0BLDxNuWfiP4aSFOTItNdSPolx38%2BUf%2FiXrvPdoGmStdlfwLFZYDvqkAJrWWk4yNReCLnBD%2FqPsDZd7oITZcV8HMx1G%2Fk786sE2Tis1g8dJd8zxVWs%2BbKztBnq1TfqUiqPYK9pXifXmJF23GuXP%](https://search.yahoo.com/yhs/search?hspart=iba&hsimp=yhs-syn&type=asbw_8923_CHW_US_tid20049&p=Los%20Angeles%20District%20Attorney%27s%20Office%20Justice%20System%20Integrity%20Team&param1=S5jcSQTXTSTB%2F1a3yXgqqonrXU6S5zpnJeVcB6cuPAFci08EWQK9Ap%2F2JrII0%2F0TI&param2=9dUI1n2R0BLDxNuWfiP4aSFOTItNdSPolx38%2BUf%2FiXrvPdoGmStdlfwLFZYDvqkAJrWWk4yNReCLnBD%2FqPsDZd7oITZcV8HMx1G%2Fk786sE2Tis1g8dJd8zxVWs%2BbKztBnq1TfqUiqPYK9pXifXmJF23GuXP%2F)

Notifications are made to JSID and specialized prosecutors and/or from this division of the District Attorney's Office may respond to the scene.

The **District Attorney's Office, Crimes Against Police Officer (CAPOS)**, investigates and prosecutes crimes committed against police officers. Notifications are also made to CAPOS and specialized prosecutors from this office may also respond to the scene.

**Note.** All District Attorney prosecutors are considered "Officers of the Court" and a charged with insuring the interest of justice, due process, and equal protection are followed at all times.

As you can see, at the scene of a CUOF incident, there are three inter-related but distinct investigations occurring. The first focuses on the involved officer(s) as a "suspect" in an administrative investigation. The second focuses on the officer(s) as a "suspect" in a criminal unlawful use of force investigation. Finally, the third investigation treats the involved officer(s) as potential "victims" of a crime committed by the original suspect(s).

### The 72-Hour Briefing

Approximately 72-hours after the CUOF, a briefing with the COP is held regarding the preliminary investigations and the status of the involved officers. The OIG attends the briefing and may provide input.<sup>7</sup>

### Critical Incident Community Briefings

Approximately one week after the CUOF, the LAPD releases a Critical Incident Community Briefing video, which is published on media platforms, such as You Tube. The purpose of these Critical Incident Community Briefings are to provide transparency and accountability in such that the public can obtain a full understanding of the complexities of policing, the challenges officers face in the line of duty, and when officers may need to use force to make an arrest or defend themselves of others. These community briefings aim to provide an opportunity to learn about critical incidents.<sup>8</sup>

### Full Investigation

Over the next several months, FID investigators continue an extensive investigation and process all evidence. Interviews are transcribed, video footage is reviewed, lab reports are collected and analyzed, as are medical records and reports,

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<sup>7</sup> See Footnote No. 1

<sup>8</sup> <https://www.youtube.com/playlist?list=PLW5iqZEagvjMvmXRnBaYqozLYwmzUO2B9>

The OIG conducts real-time oversight of FID’s work during the investigative process. At the conclusion of the investigation, the OIG reviews the completed investigative file.<sup>9</sup>

### Use of Force Review Board

This board reviews the investigation and provides recommendations to the Chief of Police (COP). The OIG is present at all board hearings and provides input.<sup>10</sup>

### Chief of Police Report

Based on the investigation file and recommendations from the Use of Force Review Board, the COP makes recommendations to the Police Commission about whether the involved officers’ actions complied with policy.<sup>11</sup>

### The OIG Assessment and Analysis

The OIG prepares its own independent report for the Police Commission, including its analysis of the incident and recommendations as to whether the involved officers’ actions complied with policy.<sup>12</sup>

### Adjudication by Police Commission

The Police Commission hears the case in closed-session and makes findings as to whether the involved officers’ tactics, drawing of a firearm, and use of force complied with LAPD policy and training.<sup>13</sup>

### Discipline

Following the adjudication, if an officer was found to have acted outside of LAPD policy and/or training, the COP determines the appropriate remedial action. This may include retraining and/or the imposition of discipline.<sup>14</sup>

### Public Review

A report summarizing the facts of the incident as well as the Police Commission’s findings and reasoning is made available to the public.<sup>15</sup>

### California Assembly Bill 1506

Enacted as another police reform bill in response to several highly publicized incidents involving the use of deadly force by law enforcement officers, AB 1506 increases the level of the

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<sup>9</sup> See Footnote No. 1

<sup>10</sup> See Footnote No. 1

<sup>11</sup> See Footnote No. 1

<sup>12</sup> See Footnote No. 1

<sup>13</sup> See Footnote No. 1

<sup>14</sup> See Footnote No. 1

<sup>15</sup> See Footnote No. 1

California Attorney General's oversight over local law enforcement's use of deadly force and does so in two distinct ways.

Currently, the Attorney General has discretionary authority to conduct investigations of officer-involved shootings. Now, AB 1506 requires a state prosecutor from the Attorney General's office to investigate any incidents where an officer-involved shooting resulted in the death of an unarmed civilian – defined as any person not in possession of a deadly weapon. AB 1506 authorizes the assigned state prosecutor to do the following as part of their investigation:

Investigate and gather facts related to the officer-involved shooting;

Prepare and submit a written report that must include a statement of facts, detailed analysis and conclusion for each issue under investigation, and – if applicable – recommendations to modify the policies and practices of the law enforcement agency in question; and

Initiate and prosecute a criminal action against the officer if criminal charges are warranted.

The bill also requires the Attorney General to maintain a public website where these officer-involved shooting investigations are posted, subject to redaction for information that is required by law to be kept confidential.

Beginning July 1, 2023, AB 1506 also requires the Attorney General to operate a Police Practices Division within the Department of Justice. The purpose of this new Division is to review a local law enforcement agency's policies regarding the use of deadly force upon request of the agency. As part of the Division's review, it will make specific and customized policy recommendations based on recommended best practices to the local law enforcement agency, including campus police.

As an important note, AB 1506 indicates that the Attorney General is required to implement this new law "subject to an appropriation for this purpose by the Legislature." The significance of this bill language is that the Attorney General is not yet technically required to implement this new law until the Legislature can appropriate the funding to do so – something that has not yet happened. As a result, the implementation of this new law may be delayed until the Legislature provides for the necessary appropriation of funding.

(AB 1506 adds Section 12525.3 to the Government Code.)<sup>16</sup>

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<sup>16</sup> <https://www.lcwlegal.com/news/ab-1506-requires-attorney-general-to-investigate-officer-involved-shootings-that-result-in-the-death-of-an-unarmed-civilian-and-establishes-a-police-practices-division-within-the-state-doj-to-revie/>