


<p>California Department of Justice DIVISION OF LAW ENFORCEMENT John D. Marsh, Chief</p> 	<h1>INFORMATION BULLETIN</h1>	
<p><i>Subject:</i></p> <p>Determination of “Deadly Weapon” in Officer Involved Shooting (OIS) Incidents as AB 1506 qualifying events</p>	<p><i>No.</i></p> <p>2022-DLE-01</p> <p><i>Date:</i></p> <p>3/30/2022</p>	<p><i>Contact for information:</i></p> <p>Scot Hunter Division of Law Enforcement Bureau of Investigation (951) 880-9561</p>

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

Effective July 1, 2021, pursuant to Assembly Bill (AB) 1506 (Chapter 326, Statutes of 2020), 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).)

Determination of “Deadly Weapon” in Officer Involved Shooting (OIS) Incidents as AB 1506 qualifying events

The purpose of this advisory is to provide guidance for all law enforcement partners in determining whether an officer-involved shooting (OIS) qualifies as an AB 1506 event. DOJ deployment does not suggest, in any way, criminal culpability.

Deadly Weapon

Per AB 1506, OIS Investigation Procedural Guidelines: A “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 purpose are considered deadly weapons only when, based on all the circumstances, they are 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, baseball bats, and iron bars.

Replica firearms (including Airsoft guns) 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).

Use of Deadly Weapon

In determining whether an OIS qualifies as an AB 1506 event, the evaluation process is not to be based solely on the mere possession of a “deadly weapon” or other object (e.g., a visible sheathed knife), but must also consider whether the weapon was “used in a manner likely to produce death or great bodily injury” at the time of the shooting. The totality of circumstances of an incident are considered in making such a determination.

Moving Vehicles

An OIS involving a moving vehicle occurs when an officer shoots at or into a moving vehicle. Due to the unique factual uncertainties related to moving vehicle OIS incidents, these incidents are among the most complicated investigations which require extensive evaluation of the circumstances at the scene to determine whether the vehicle was driven in a manner as to constitute a “deadly weapon”.

These cases consider witness (e.g., passengers) accounts which often differ from the officer(s)' version of events. Further, with or without witnesses, forensic analysis has played an important role in determining whether the moving vehicle was used in a manner likely to produce death or great bodily injury at the time of the shooting.

DOJ requests that law enforcement agencies (LEA) contact DOJ for moving vehicle OIS incidents.

Law Enforcement Agency's (LEA) Notification Responsibility

Effective July 1, 2021, immediately notify the DOJ when the LEA has an officer-involved shooting resulting in the death of an unarmed civilian. AB 1506 mandates that it is DOJ's responsibility to evaluate these and other types of OIS incidents immediately because of the factual developments and the local communities' expectations of transparency in investigating OIS incidents.

Whenever there is any doubt or uncertainty as to whether an OIS qualifies as an AB 1506 event, LEAs should make notification to the Los Angeles Regional Criminal Information Clearinghouse (LACLEAR 800-522-5327) immediately so that DOJ can assist the involved agency in determining whether the OIS qualifies as an AB 1506 event requiring a DOJ response. DOJ deployment does not suggest criminal culpability. DOJ's deployment is mandatory as required by AB 1506.