

# WASHINGTON COUNTY CRITICAL INCIDENT TASK FORCE INVESTIGATIVE PROTOCOL



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## **FORWARD**

The Washington County Critical Incident Task Force Investigative Protocol has been adopted to ensure that investigation of officer-involved incidents occurring in Washington County are conducted professionally, thoroughly, and impartially.

The Protocol does not preclude the law enforcement agency employing an officer alleged to have caused or contributed to an officer-involved incident from conducting an internal administrative investigation.

The Protocol cannot anticipate every possible circumstance that might occur during an investigation. Therefore, Protocol procedures may be adapted by mutual agreement of participating agencies in response to particular situations, keeping in mind the goal of impartial independence.

This Protocol is not intended to increase the civil or criminal liability of member agencies or their employees and it shall not be construed as creating any mandatory obligation to, or on behalf of, third parties.



## **Washington County Critical Incident Task Force Protocol**

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## **CRITICAL INCIDENT TASK FORCE PROTOCOL**

### **1. DEFINITIONS**

- A. **Officer-Involved Critical Incident:** An incident defined under Utah Code Annotated section 76-2-408 (1953, as amended) that occurs in Washington County Utah.
- B. **Law Enforcement Employee:**
  - 1. Full-time, part-time, and hourly sworn officers; whether on or off duty at the time of the incident;
  - 2. Full-time, non-sworn employees on duty at the time of the incident;
  - 3. Part-time, non-sworn employees on duty at the time of the incident;
  - 4. Reserve law enforcement officers on duty at the time of the incident; and
  - 5. Temporary law enforcement employees and law enforcement agency volunteers, whether paid or unpaid, on duty at the time of the incident (including informants working under direct control and supervision of a peace officer).
- C. **Subject:** Any person involved in an incident who may be criminally culpable or injured.
- D. **Venue Agency:** The agency or agencies, within whose geographical jurisdiction the incident occurs.
- E. **Employer Agency:** The agency that employs the involved law enforcement employee. (In many cases the venue agency will also be the employer agency).
- F. **Participating Agencies:** Law enforcement agencies in Washington County who participate in this Protocol.
- G. **Task Force Command:** Washington County Attorney's Office and designated Task Force supervisors from participating agencies.
- H. **Task Force Manager:** A command-level Task Force investigator assigned to manage/supervise a Task Force Investigation.
- I. **Task Force Investigators:** Those investigators assigned to the Critical Incident Task Force by participating law enforcement agencies to conduct the criminal investigation.
- J. **Administrative Investigators:** Those investigators assigned by the employer agency to conduct the administrative investigation of the incident.

## **2. INVOCATION OF PROTOCOL**

In the event of an officer-involved critical incident as defined by UCA 76-2-408, this Protocol is automatically and immediately effective. The venue agency is required to immediately contact the Task Force Manager and affirmatively invoke the Protocol. The Task Force Manager shall immediately notify the Washington County Attorney and have Task Force personnel respond.

## **3. INVESTIGATIVE AGENCIES, FORMATS, AND RESPONSIBILITIES**

- A. To recognize and accommodate the various interests and rules of law that are involved in an Incident, investigations may be performed under two separate formats: The Protocol Investigation and the Administrative Investigation.
  - 1. **Protocol Investigation:** The Protocol investigation focuses on the conduct of the law enforcement employee and subject. The Protocol investigation will be performed concurrently with, but independently from the administrative investigation of the law enforcement employee. The Task Force Manager for the Protocol investigation shall be from an agency not involved in the incident. The Protocol investigators shall not participate in the administrative investigation.
  - 2. **Administrative Investigation of Law Enforcement Employees:** The administrative investigation is conducted by the employer agency and addresses policy and procedural issues of the department. While Protocol investigators do not direct their investigative attention to administrative concerns, it is recognized that their results are of interest to the employer agency for its internal use and those results are fully available for that purpose.
  - 3. **Venue Determination:** When an Incident occurs in part, in two or more jurisdictions, each of those jurisdictions is a venue agency. If for any reason, the venue agency cannot be determined, the County Attorney or his representative will designate the venue agency.
- B. **Scene security:** Each agency has the responsibility for securing the scene(s) within its jurisdiction until all investigations are complete.
- C. **Crime Scene Processing:** The Protocol investigators will be responsible for documenting the scene, collection, preservation, and analysis of physical evidence for the investigation of the subject and the law enforcement employee. The Protocol investigation of the crime scene shall have priority over the administrative investigation of the crime scene. Administrative investigators have access to all evidence and tests collected by Protocol investigators.
- D. **Evidence:** The CITF Manager and Supervisors shall determine where the evidence is stored. Before the final relinquishment of the scene, the Protocol investigators should provide the administrative investigators an opportunity to assess the need for further evidence processing.

- E. **Notifications:** Upon identifying an “Incident” as defined herein, the venue agency shall make the following notifications as promptly as possible:
  1. Critical Incident Task Force Investigation Team
  2. The Washington County Attorney’s Office
  3. The Utah Medical Examiner’s Office, when a death has occurred.
- F. **Public Safety Statement:** The first supervisor on the scene from the venue agency should ask the involved officer(s) Public Safety Questions. The questions shall be asked immediately following the incident to ensure the safety of the public and law enforcement personnel on the scene. The questions are limited to the question format provided by the County Attorney’s Office. Any further questioning of the involved officer(s) shall be conducted by Protocol investigators and/or venue agency administrative investigators.
- G. **Hospital:** If a person is transported to the hospital, an officer, (preferably from the venue agency), should accompany the person to:
  1. Locate, preserve, safeguard and maintain the custody chain on physical evidence on/with the subject.
  2. Obtain a dying declaration, a spontaneous statement, a contemporaneous statement, or a statement of a then-existing or previous mental or physical state.
  3. Maintain custody if the person has been arrested.
  4. Identify witnesses and medical personnel.
  5. Be available for contact with the injured person’s family, if appropriate.
- H. **Law Enforcement Employee Firearm:** If a law enforcement employee still has possession of the weapon used in the Incident, the supervising officer at the scene may take the weapon and secure it. However, firearms should not be removed from their holster unless necessary. If the firearm is taken by the supervisor it should be done discretely (e.g., in private). The preferred method for securing a firearm is for the Protocol investigation team to recover it at the appropriate time. Firearms should be replaced as quickly as possible unless circumstances dictate otherwise.
- I. **Shooting Incident:** In shooting cases, the Protocol Task Force weapons investigator will inspect the firearms of all officers present at the time of the Incident to ensure that all discharged firearms are identified by owner and serial number. The Protocol weapons investigator shall document the condition of the inspected firearms.
- J. **Weapons:** Collected weapons or instruments shall be placed in the evidence storage facility determined by the CITF until all appropriate testing is accomplished. Weapons should not be released from evidence or handled except for Protocol investigative purposes. The handling of weapons by administrative investigators shall be approved by the County Attorney’s Office.
- K. **Weapon Disposition:** Final disposition of weapons/evidence is in accordance with state law and the venue agency policy, after approval from the County Attorney.
- L. **Transporting and Sequestering Involved Officers:**

1. Officers who were present at the time of the officer-involved critical incident involving a dangerous weapon as defined under UCA 76-2-408, whether actors or witnesses, will be relieved of their duties as promptly as possible and shall be transported to a secure location and sequestered. A peer officer may accompany the involved employee; however, they should not discuss the incident. This subsection may also be applied in other circumstances where reasonable.
2. Involved officers shall not discuss the case amongst themselves, fellow officers, or others not involved in the investigation, except their legal representatives.
3. Involved officers may contact their spouses or family and notify them of their well-being

#### **4. CUSTODIAL DEATHS**

- A. A subject who dies while in police or corrections custody falls under the Protocol.
- B. If the death was anticipated and the result of a medical condition under the care of a physician, it will be considered an attended death and the Protocol Task Force should not respond in accordance with UCA 76-2-408.
- C. Custodial Death Scenes: When an Incident occurs in a correctional facility, a holding facility or other location and other inmates may be witnesses, those inmates should be identified, and if possible, separated, pending interviews by Protocol investigators.

#### **5. OFFICER INTERVIEWS**

- A. Law Enforcement employees have the same rights and privileges as citizens.
- B. Protocol investigation: Interviews of law enforcement employees involved in a critical incident as defined under UCA 76-2-408 shall be conducted by designated Protocol investigators unless otherwise agreed upon before the interviews.
- C. Officers who are witnesses to a critical incident shall complete a report and make that report available to the CITF. If necessary, a witness officer may be interviewed by CITF Investigators.
- D. If and when the Protocol interview becomes custodial, the Miranda admonition is applicable. However, if the officer has a legal representative present at the interview, the Miranda admonition does not have to be given.
- E. Agency policy and case law permit heads of law enforcement agencies to order their officers to cooperate with criminal investigations being performed by other agencies. Failure to comply with such orders may result in insubordination. When applicable, interviewees may be advised of this provision. However, officers will not be compelled by threats of administrative punitive action (or otherwise) to answer Protocol Task Force questions that could be self-incriminating.
  1. Protocol Interviews will be conducted separately. Interviews will normally be recorded.
  2. Interviewees will be considered as witnesses or victims unless the circumstances dictate otherwise.

## **6. INTOXICANT TESTING**

- A. Law Enforcement employees have the same rights and privileges as citizens regarding intoxicant testing. When Protocol investigators determine that a law enforcement employee's sobriety is relevant to the investigation, they have the following options:
  - 1. Obtain blood and/or urine sample by consent.
  - 2. Obtain a search warrant for the sample.
- B. Protocol Investigation Test Results: Intoxicant test results obtained by Protocol investigators are available to administrative investigators. The Protocol investigators have the first opportunity to obtain blood and/or urine samples from the law enforcement employee.
- C. In the event Protocol investigators do not obtain blood and/or urine samples for testing, the employer agency may then seek to obtain samples for administrative purposes.
- D. Miscellaneous:
  - 1. Blood is best for alcohol testing, while urine is best for drug screening. Samples of both should be obtained for the most complete results.
  - 2. Samples should be collected promptly after the Incident for the most meaningful results.
  - 3. A law enforcement employee may volunteer to provide blood and urine for testing even if Protocol and administrative investigators have not obtained samples. Similarly, a person from whom Protocol or administrative investigators have obtained samples may request that another sample be taken for independent testing. Such a request will be promptly honored; however, the person volunteering this sample is responsible for the expense of the test.

## **7. AUTOPSY**

- A. At least one member of the Protocol Task Force will attend the autopsy. The Medical Examiner performing the autopsy should receive a complete briefing before the examination. This briefing will include all relevant information known at that time.
- B. The Protocol investigator shall assume responsibility for documenting and collecting physical evidence following the autopsy.
- C. Although the Medical Examiner has authority to determine who attends an autopsy, it is usually advisable to allow attendance by a recognized professional criminalist retained by representatives of the decedent, if such a request has been expressed before the autopsy has begun.

## **8. WASHINGTON COUNTY ATTORNEY'S OFFICE**

- A. The County Attorney's Office assumes the following role in Protocol investigations:
  - 1. Participate co-equally with the venue and employer agency in the Protocol investigation.
  - 2. Upon completion of the Protocol investigation, analyze the facts of the Incident as well as relevant law to determine if violations of criminal laws exist. If so, prosecute as appropriate.
  - 3. The County Attorney's Office will strive to complete its report and findings of the investigation within a reasonable period of time.
  - 4. Decide irreconcilable differences between member agencies.
- B. If the Protocol investigation results in criminal charges against a law enforcement employee, the affiant on the information filed by the County Attorney's Office shall be a Protocol investigator assigned by the Task Force Manager. Once criminal charges have been filed, the Protocol investigative team shall be dissolved and any additional follow-up investigation that is needed to prepare the case for trial shall be handled by an investigator assigned by the County Attorney.
- C. Officers assigned to the Protocol Task Force should make themselves available for trial preparation and court purposes.

## **9. REPORT WRITING**

- A. Protocol investigators will decide which investigator is responsible for a particular report. Investigators should not write more than one report on an interview or event, regardless of the number of interviewers involved. Protocol investigators are responsible for the final report of the Task Force investigation. All Protocol investigators shall coordinate with the Task Force Manager to write a final report which documents their participation in the investigation.
- B. Prompt completion and distribution of reports are essential. All agencies and investigators will strive for report completion and distribution as soon as possible while ensuring all information is obtained accurately before completion.
- C. Administrative Investigation:
  - 1. The employer agency shall control the reports and findings of the administrative investigation.
  - 2. Protocol investigators will promptly and periodically brief the administrative investigators of the Protocol investigation progress. The administrative investigators will have access to briefings, the scene(s), physical evidence, reports, and interviewees' statements.

## **10. MEDIA RELATIONS**

- A. The interests of the news media must be balanced with the requirements of the investigations and with the rights of the involved individuals.
- B. Agencies with no jurisdictional or employment interests in the Officer Involved Critical Incident should not speak to the media.
- C. The department head or designee of the Venue Agency should be the single point of media information until the matter is referred to the WCAO. Prior to any information being shared with the media, the Venue agency shall consult with the WCAO.

- D. The County Attorney Bureau Chief will provide the Venue Agency with sufficient information to issue a press release.
- E. Other participants in the investigation should refrain from making separate press releases or discussing the investigation with the media press without coordinating with the County Attorney Bureau Chief and/or the department head or designee of the Venue agency and employer agency.
- F. The Protocol Command Team will designate who has the responsibility for making press releases about an incident and its investigation.
- G. The employer agency should limit its comments to the following areas:  
The employer-employee relationship.  
Information that has been cleared for release by the Protocol Task Force and County Attorney's Office.

**11. RELEASE/RETENTION OF RECORDS**

- A. Any agency head with jurisdictional or employment interests in the Officer Involved Critical Incident who is interested in releasing a record, proactively or in response to a GRAMA request, should coordinate with WCAO prior to the release.
- B. All GRAMA requests for pre – protocol records created regarding incidents that led up to the Critical Incident Investigative Protocol being enacted shall be evaluated and released by each individual agency according to their own analysis of the record(s) and pursuant to GRAMA provisions. Prior to any release of records, this should be reviewed with the WCAO to determine if the records sought/requested are currently protected.
- C. Material/Evidence that is created or collected by, or at the request or direction of Protocol investigators will be made available promptly to those agencies that have an interest in the investigation, including administrative investigators.
- D. When the Protocol Task Force and/or County Attorney's Office concludes that the physical evidence collected for the protocol investigation is no longer needed for criminal law purposes, the employer agency and venue agency shall be notified of that decision so it can assume responsibility for preservation or disposal of such evidence as prescribed by law and department policy.
- E. Any GRAMA requests for Protocol Task Force reports should be referred to the employer agency of the protocol task force investigators. The County Attorney's Office will maintain the final investigation summary report.

END OF PROTOCOL