

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 investigations 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. **An Incident:** An incident occurs when a law enforcement officer interacts with any person in a way that triggers the Protocol.
- B. **Officer-Involved Critical Incident:** An incident defined under Utah Code Annotated section 76-2-408 (1953, as amended) that occurs in Washington County.
- C. **Officer-Involved Incident:** An incident that occurs when a law enforcement employee is alleged to have engaged in criminal misconduct in Washington County.
- D. **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).
- E. **Subject:** Any person involved in an incident who may be criminally culpable or injured.
- F. **Venue Agency:** The agency or agencies, within whose geographical jurisdiction the incident occurs.
- G. **Employer Agency:** The agency that employs the involved law enforcement employee. (In many cases the venue agency will also be the employer agency).
- H. **Participating Agencies:** Law enforcement agencies in Washington County who participate in this Protocol.
- I. **Task Force Command:** Washington County Attorney's Office and designated Task Force supervisors from participating agencies.
- J. **Task Force Manager:** A command level Task Force investigator assigned to manage/supervise a Task Force Investigation.
- K. **Task Force Investigators:** Those investigators assigned to the Critical Incident Task Force by participating law enforcement agencies to conduct the criminal investigation.
- L. **Administrative Investigators:** Those investigators assigned by the employer agency to conduct the administrative investigation of the incident.

2. INVOCATION OF PROTOCOL

- A. Automatic and immediate. 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.
- B. Optional. Each member agency, in the capacity of a venue agency or employer agency, may request activation of this Protocol upon the occurrence of any officer-involved incident involving a law enforcement employee. The Task Force command will consider the circumstances of the incident when determining whether or not to invoke the Protocol. Upon this optional invocation, the matter will be investigated under the provisions of this Protocol.

3. INVESTIGATIVE AGENCIES, FORMATS AND RESPONSIBILITIES

- A. In order 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 Employee:** 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:** All evidence collected at the scene shall be secured in the venue agency evidence storage facility. Prior to 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 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 safety to the public and law enforcement personnel on 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. If a person is transported to the hospital, an officer, (preferably from the venue agency), should accompany the person in order 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 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 contacts 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. 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. Collected weapons or instruments shall be placed in the venue agency’s evidence storage facility 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. 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. If the death was anticipated and the result of a medical condition under 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.
- B. If the death occurred at a correctional facility, police agency building, or holding area, the venue agency is the agency having jurisdiction in that area.
- C. If a death of a subject occurs outside a correctional facility, the agency having jurisdiction in the area will act as the venue agency. The employer agency would be the agency that had custody of the subject. Using this scenario, the venue and employer agency could be the same.
- D. 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 AND WITNESS INTERVIEWS**

- A. Law Enforcement employees have the same rights and privileges as citizens.
- B. Protocol investigation: Interviews of law enforcement employees, witnesses and suspects shall be conducted by designated Protocol investigators, unless otherwise agreed upon prior to the interviews.
- C. 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.
- D. 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 which 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 a 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 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 prior to 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 within 2 weeks of the completion of the Protocol investigation. However, this cannot be guaranteed, depending on the complexity of the incident.
 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. Prior to submitting a law enforcement (employee) interview report, the involved employee should have the opportunity to review the report. 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 is essential. All agencies and investigators will strive for report completion and distribution as soon as possible while ensuring all information is obtained accurately prior to completion.
- C. Administrative Investigation:
 1. The employer agency shall control the reports and findings of the administrative investigation.
 2. Administrative information regarding the subject of the investigation should not be shared with Protocol investigators. Other information obtained by administrative investigators may be shared with Protocol and criminal investigators only when legally appropriate and after obtaining approval from the employing agency's legal counsel.
 3. 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. NEWS AND MEDIA RELATIONS

- A. The Protocol Command Team will designate who has the responsibility for making press releases about the Incident and its investigation.
- B. The employer agency should limit its comments to the following areas:
 1. The employer-employee relationship.
 2. Information that has been cleared for release by the Protocol Task Force and County Attorney's Office.
- C. Media requests for reports should be referred to and disseminated through the County Attorney's Office.

11. ACCESS TO REPORTS AND EVIDENCE

- A. Material/Evidence that is created or collected by, or at the request or direction of the Protocol investigators will be made available in a timely manner to those agencies that have an interest in the investigation, including administrative investigators. Material and Evidence provided to administrative investigators should be released from the original case file at the County Attorney's Office.

- B. 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.

- C. Any GRAMA requests for Protocol Task Force reports should be referred to and disseminated through the County Attorney's Office.

END OF PROTOCOL