

I. DEFINITIONS

- A. Critical Incident Investigative Protocol:** An agreement entered into with agencies in Box Elder, Cache, and Rich County that provides uniform procedures and mutually agreed-upon guidelines for the investigation of ~~Officer~~ law enforcement employee involved critical incidents.
- B. Dangerous Weapon:** A firearm or an object that in the manner of its use or intended use is capable of causing death or serious bodily injury to an ~~person~~ individual, as more specifically defined in Utah Code 76-10-501(6)(a) and (b), and may include any explosive, chemical or incendiary device as defined by Utah Code 76-10-306(1)(a).
- C. Deadly Force:** A force that creates or is likely to create, or that the ~~person~~ individual using the force intends to create, a substantial likelihood of death or serious bodily injury to an ~~person~~ individual.
- D. In Custody:** means in the legal custody of a state prison, county jail, or other correctional facility, including custody that results from:
1. A detention to secure attendance as a witness in criminal case;
  2. An arrest for or charging with a crime and committing for trial;
  3. Committing for contempt, upon civil process, or by other authority of law;
  4. Sentencing to imprisonment on conviction of a crime.
- E. Serious Bodily injury:** As defined in Utah Code ~~76-1-604~~ 76-1-101.5.
- F. ~~Officer~~ Law Enforcement Employee Involved Critical Incident:** An incident occurring in Box Elder County, Cache County and/or Rich County involving a law enforcement employee of a law enforcement agency located in Box Elder County, Cache County, and/or Rich County including but not limited to the following:
1. An ~~officer's~~ law enforcement employee's use of deadly force.
  2. An ~~officer's~~ law enforcement employee's use of a dangerous weapon against an ~~person~~ individual that causes injury to any ~~person~~ individual.
  3. Death or serious bodily injury to any ~~person~~ individual other than the ~~officer~~ law enforcement employee, resulting from an ~~officers~~ law enforcement employee's:
    - a. Use of a motor vehicle while the ~~officer~~ law enforcement employee is on duty.

- b. Use of a government vehicle while the ~~officer~~ law enforcement employee is off duty.
4. The death of an ~~person~~ individual who is in custody, but excluding death that is the result of disease, natural causes, or conditions that have been medically diagnosed prior to the ~~person's~~ individual's death.
5. The death of or serious bodily injury to an ~~person~~ individual not in custody, other than an ~~officer~~ law enforcement employee, resulting from an ~~officer's~~ law enforcement employee's attempt to prevent an ~~person's~~ individual's escape from custody, to make an arrest, or otherwise to gain physical control of an ~~person~~ individual.
6. Any intentional or accidental ~~shooting~~ discharge of a firearm by a law enforcement employee directed at an ~~person~~ individual, whether or not a fatality or injury results.
7. Any intentional or accidental use of any other weapon or force by a law enforcement employee against another ~~person~~ individual, whether or not a fatality results.
8. Any physical altercations, mutual combat, or domestic violence in which the law enforcement employee is acting in the capacity of a private citizen and occurs within the jurisdiction of his or her employer.

**G. Law Enforcement Employee:** This protocol applies to defined employees and to certain other people affiliated with law enforcement agencies, which are members of this protocol agreement as follows:

1. Full-time, part-time, and hourly sworn officers; whether on or off duty and acting for a law enforcement or a private purpose 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 employees~~ officers ~~and law enforcement agency volunteers~~, whether paid or unpaid, on duty at the time of the incident. This category includes informants, ~~and volunteers~~ and non-sworn employees when they are working under direct control and supervision of a peace officer.

**H. Venue Agency:** The agency or agencies, within whose geographical jurisdiction the incident occurs.

- I. **Employer Agency:** The agency that the involved law enforcement employee is employed by or affiliated with. (The employer and venue agency may be one and the same.)
- J. **Lead Investigator:** A certified law enforcement officer, without regard to rank or title, appointed by the Unified Command to manage any criminal investigation under this protocol.
- K. **Criminal Investigators:** Investigators from protocol member agencies assigned by the Unified Command to conduct the investigation of the incident. Criminal Investigators, including the Lead Investigator, will not be chosen from agencies who employ a law enforcement employee alleged to have caused or contributed to the law enforcement employee involved critical incident. The County Attorney with jurisdiction over the incident shall be the authority to resolve any questions regarding eligible Criminal Investigators.
- L. **Administrative Investigators:** Investigators assigned by the employer agency to conduct the administrative investigation.
- M. **Unified Command:** The department head or designee of the venue agency (if not the employer agency), ~~employer agency,~~ the County Attorney ~~of~~ with jurisdiction, the department head or designee of a protocol member agency located outside of the county with jurisdiction (other than an agency who employs a law enforcement employee alleged to have caused or contributed to the law enforcement employee involved critical incident) chosen by the County Attorney with jurisdiction, and the Operations Section Chief working in partnership to provide leadership and direction for the incident.
- N. **Operations Section Chief:** The Operations Section Chief is designated as ~~the~~ a full time investigator employed by the Cache County Attorney's Office with jurisdiction or other available law enforcement officer as assigned by the County Attorney. If the full time investigator is not available, the operations section chief will be selected from available protocol investigators by the unified command. The Operations Section Chief will assist in the designation of the Lead Investigator and will be responsible for the first-line management of the criminal investigation.
- O. **Case File Manager:** The Lead Investigator or another law enforcement employee from the same agency as the Lead Investigator selected to compile the criminal investigative case file including but not limited to all reports, media, and documents.

## II. INVOCATION OF PROTOCOL

- A. **Automatic and immediate.** The Northern Utah Critical Incident Investigative Team Protocol is automatically enacted when the following law enforcement employee involved critical incidents occur:

1. Upon the use of deadly force by a law enforcement employee.
2. Upon a law enforcement employees use of a dangerous weapon that causes injury to any ~~person~~ individual.
3. Upon the death or serious bodily injury to any ~~person~~ individual other than the law enforcement ~~officer~~ employee, resulting from ~~an officers~~ law enforcement employee's use of a motor vehicle while the ~~officer~~ law enforcement employee is on duty or use of a government vehicle while the ~~officer~~ law enforcement employee is off duty.
4. Upon the death of an ~~an person~~ individual who is in custody, but excluding a death that is the result of disease, natural causes, or conditions that have been medically diagnosed prior to the ~~person's~~ individual's death.
5. Upon the death of or serious injury to an ~~an person~~ individual not in custody, other than a law enforcement ~~officer~~ employee, resulting from an ~~officer's~~ law enforcement employee's attempt to prevent an ~~an person's~~ individual's escape from custody, to make an arrest, or otherwise to gain physical control of the ~~person~~ individual.

When the above law enforcement employee involved critical incidents occur, the venue agency is required to immediately contact the County Attorney's Office in which the venue agency is located and affirmatively invoke the protocol.

**B. Optional.** Each member agency in the capacity of a Venue Agency or Employer Agency, may itself invoke the protocol upon occurrence of any law enforcement employee involved critical incident ~~involving a law enforcement employee, which does not trigger the automatic and immediate invocation of the protocol, and~~ which may have possible criminal liability attached to the law enforcement employee. The County Attorney ~~of~~ with jurisdiction may decline to participate in optional invocations.

### III. INVESTIGATIVE AGENCIES, FORMATS, AND RESPONSIBILITIES

To properly recognize and accommodate the various interests and the various rules of law which may be involved in an incident, investigations of these matters may be performed under two separate investigative formats: the criminal investigation and the administrative employer agency.

#### A. Criminal Investigation

1. Designation of Investigators

- a. The criminal investigation that commences pursuant to the invocation of this protocol has priority over any parallel administrative investigation.
- b. Upon invocation of this protocol, members of the Unified Command and which includes the Operations Section Chief, will select a Lead Investigator to manage the criminal investigation.
- ~~e. The Operations Section Chief will be the full-time investigator from the Cache County Attorney's Office, unless one is unavailable. In the event the full-time investigator is unavailable the Operations Section Chief will be selected from available protocol investigators by the Unified Command. a full time investigator employed by the County Attorney's Office with jurisdiction or other available law enforcement officer as assigned by the County Attorney.~~
- d. The Lead Investigator will be from a non-involved agency and may be made without respect to the rank or title of the other investigators participating in the investigation. The Lead Investigator's agency will be the official keeper of the record. Any GRAMA requests will be handled by the Lead Investigator's agency. If feasible, The Lead Investigator's Agency will give all criminal investigators access to the Lead Investigator's reporting system for report writing. The case file will be compiled by the Lead Investigator and/or a Case File Manager, employed by the same agency, prior to submission to the County Attorney.
- e. The Operations Section Chief and Lead Investigator will be responsible for the first-line management of the criminal investigation including the assembly and assignment of Criminal ~~Protocel~~ Investigators. Investigators may be utilized from law enforcement agencies not a part of the protocol agreement, as desired and authorized by the Operations Section Chief. With the consent of the County Attorney with jurisdiction, departments within a county may choose and mutually agree to pre-establish a call out list and/or call out teams of Criminal Investigators.
- f. Upon request, member agencies should provide, if available, investigators with experience and/or training in critical investigations. In the event of an law enforcement employee involved critical incident occurring in a correctional facility the Unified Command shall prioritize selecting a Lead Investigator and/or Criminal Investigators with corrections experience.
- g. Protocol Criminal Investigators will be responsible for the whole criminal investigation, including the actions of all individuals involved in the critical incident and/or criminal episode, unless otherwise determined by the County Attorney.

- h. Investigative costs (i.e. subpoenaed documents, lab testing, etc.) will be paid by the employer agency at the request of the County Attorney. Additional investigative costs incurred at the request of the County Attorney after the investigation is turned over for review will be paid by the County Attorney's Office. Salary and overtime expenses will be paid for by the employee/investigators agency.

## 2. Venue Determination

- a. When an incident occurs in part in two or more jurisdictions, each of those jurisdictions is a venue agency.
- b. When an incident occurs on the boundary of two jurisdictions, or under circumstances that make determination of the Venue Agency difficult or in dispute, the County Attorney ~~of~~ with jurisdiction shall be the authority to resolve jurisdictional issues. In the case of a jurisdictional dispute between county boundaries the respective county attorneys shall meet to resolve the dispute.
- c. If an in-custody death occurs, the Venue Agency is that agency within whose geographical jurisdiction the act occurred. If the death appears to be from disease, natural causes, or conditions that have been medically diagnosed prior to the ~~person's~~ individual's death and there is no apparent intentional or accidental conduct involved in the cause of death as determined by the geographical jurisdictional agency, the Venue Agency becomes that agency having custody of the deceased ~~person~~ individual when the distress was first discovered.

## 3. Scene Security

- a. The Venue Agency has the initial responsibility for immediately securing the scene of an ~~officer-~~ law enforcement employee involved critical incident. Once established, the Unified Command may change responsibility for scene security as necessary and assign a Protocol Investigator as Scene Command.
- b. An inner perimeter should be established as soon as possible and only those ~~persons~~ individuals with a bona fide investigative or medical service responsibility shall enter this area.
- c. The following crime scene practices will be adhered to:
  - 1. Emergency life-saving measures have first priority.

2. Control the scene to prevent further injury or criminal activity.
3. Identify, locate, preserve, and maintain chain of custody of physical evidence.
4. Ensure that no evidentiary items are removed from the scene or disturbed without the approval of the Operations Section Chief.
5. Loose weapons should be left in place, not altered, and guarded until the Operations Section Chief directs removal.
6. If exigent circumstances exist that make removing loose weapons from the scene necessary for public safety all efforts will be made to either photograph the weapon(s) in place and/or establish their location with reference to other fixed points.
7. Weapons reportedly discharged by a law enforcement employee in an ~~officer~~ law enforcement employee involved critical incident that are still in ~~their~~ the possession the law enforcement employee shall be treated as evidence. The law enforcement employee's weapon(s) should ~~only~~ not be transferred to another ~~person~~ individual ~~when~~ until it can be done without compromising ~~officer~~ law enforcement employee safety, and the integrity of ~~the weapon as~~ evidence can be preserved. Unless necessary for safety, no attempt shall be made to change the condition of the weapon(s). Weapons in the possession of law enforcement employee's on scene, but not reported to have been discharged, may be treated as evidence at the discretion of the Operations Section Chief.
8. It is recommended that the ~~involved~~ law enforcement employees, who caused or contributed to the critical incident as determined by the Operations Section Chief, be photographed as soon as practical to document their appearance at the time of the critical incident.
9. If feasible, all body camera video, dash camera video, and/or other available video should be viewed by criminal investigators before the scene is released.
10. Law enforcement ~~officers~~ employees, who were on scene, but do not report using force and/or causing or contributing to the critical incident can be debriefed as needed.

11. Additional evidence, witness interviews, and other investigative requirements will be conducted in accordance with standard investigative practices and protocols.

4. Notifications

The Venue Agency shall make the following notifications as soon as possible:

- a. Intra-department officers as required by the agency's procedures.
- b. The Employer Agency, if applicable and if not yet aware.
- c. The County Attorney ~~of~~ with jurisdiction or ~~his~~ their designee.
- d. The Medical Examiner upon confirmation of a fatality consistent with the requirements of Utah Code ~~Section 26 Chapter 4~~.

The Employer Agency shall make arrangements for peer support.

5. Transporting and Sequestering of Involved Law Enforcement Employees

- a. Law enforcement employees who ~~were present at the scene at the time of~~ are reasonably believed to have caused or contributed to an Officer law enforcement employee involved critical incident will be relieved of their duties at the scene as soon as possible and removed to a location as directed by Unified Command. ~~Officers Law enforcement employees~~ from the Venue Employer Agency not involved in the incident shall be assigned to accompany the involved law enforcement employee(s) and remain with them to ensure their privacy, accommodate their needs, and preserve the integrity of each ~~officer's law enforcement employee's~~ statement.
- b. Involved law enforcement employees should not discuss the facts of the incident with any other involved party. Involved law enforcement employees can be provided information regarding the critical incident protocol.

6. Involved Law Enforcement Employee Interviews

- a. ~~Involved~~ Law enforcement employees, who are reasonably believed to have caused or contributed to the critical incident, should not be interviewed ~~between 24 and~~ before 48 hours following the incident. At the request of the involved law enforcement employee the interview may be held earlier. Employees have the same rights and privileges as citizens, including the right to remain silent, the right to legal counsel prior to the interview, and the right to have their lawyer present during the interview.



- b. Involved law enforcement employee's interviews should be conducted outside the presence of the employing agency to avoid confusion of a compelled interview. If the involved law enforcement employee wishes to have a support ~~person~~ individual who is from the employer agency that support ~~person~~ individual will define their role as such.
- c. Public safety statements can be compelled without an attorney to determine if an immediate safety concern exists. The statement should be limited to information such as injuries, suspects, direction of travel, description/location of known evidence, estimated number of rounds fired, and the direction they were fired, and any other essential information. Only one assigned officer should get a public safety statement from the law enforcement employee involved in the incident.
- d. Any corresponding administrative investigation shall be conducted by the employer agency.

#### 7. Intoxicant Testing

- a. Law enforcement employees have the same rights and privileges as citizens regarding intoxicant testing.
- b. If investigators determine that the law enforcement employee's sobriety is relevant to the investigation they may obtain a sample through consent or a search warrant.
- c. The Employer Agency may require the law enforcement employee to submit to intoxicant testing in accordance with their specific City or Department policy. This should be conducted as part of the Administrative Investigation.
- d. The law enforcement employee can voluntarily request to submit to testing.

#### 8. Briefing and Reports

A briefing with involved agencies will be held within 10 business days with the County Attorney's office. Reports will be submitted in a reasonable time thereafter.

#### 9. Evidence

- a. ~~If the matter is concluded with the filing of criminal charges, all~~ Items of evidence shall be maintained by the Lead Investigator's

Agency and held in accordance with its procedures for disposing of evidence.

- ~~b. If no criminal charges are filed, the evidence shall be released to the Employer Agency and maintained by it in accordance with its procedures for disposing of evidence.~~

## **B. Administrative Investigation**

1. The initiation of an administrative investigation and the extent of that investigation is solely the responsibility of the Employer Agency.
2. If the Employer Agency assigns administrative investigators they should identify themselves to the Operations Section Chief as soon as possible.
3. In addition to gathering the information for the Employer Agency, administrative investigators should act as a liaison between the Operations Section Chief and the Employer Agency.
4. Compelled interview statements, physical evidence, toxicology test results, and investigative leads that are obtained by administrative investigators shall not be revealed to criminal investigators without the prior approval of the County Attorney following a determination of need and evaluation of the applicable law.
5. The Operations Section Chief will periodically brief the Administrative Investigators on the progress of the criminal investigations. They will have access to briefing, the incident scene, physical evidence, and witness statements and reports. Administrative investigators can be present at the scene while Criminal Investigators are processing the scene. However, they may not be present where involved law enforcement employees are interacting with criminal investigators.
6. The County Attorney will provide the Employer Agency with the findings of fact as soon as possible.

## **IV. 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. Any agency may make statements to the media about an incident, but the following guidelines are recommended:
  1. The department head or designee of the Venue Agency should be the single point of media information until the matter is referred to the County

Attorney. Prior to any information being shared with the media, the Venue Agency shall consult with the County Attorney.

2. The Operations Section Chief will provide the Venue Agency with sufficient information to issue a press release.
3. Other participants in the investigation should refrain from making separate press releases or discussing the investigation with the press without coordinating with the Unified Command.