

# OFFICER INVOLVED CRITICAL INCIDENT INVESTIGATIVE PROTOCOL

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## Forward

The Law Enforcement Officer Involved Critical Incident Investigative Protocol (this “Protocol”) has been established to provide uniform procedures and mutually agreed-upon guidelines. The goal and purpose of the Protocol is to ensure compliance with Utah Code Annotated §76-2-408 along with ensuring every investigation of an Officer Involved Critical Incident (OICI) is conducted professionally, thoroughly, and impartially.

This Protocol’s procedures and rules cannot anticipate every possible circumstance that might occur. When used correctly, this Protocol creates an independent, transparent, and objective process from which meaningful and valuable conclusions can be drawn. This Protocol is for the community, its citizens, the agencies who serve them, and the police officers who, often while making a split-second decision, take action in the exercise of government power that results in an OICI. Each deserves the best investigation and this Protocol strives to achieve this idea.

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

## Participating Agencies

Ephraim Police Department

Fairview Police Department

Fountain Green Police Department

Gunnison Valley Police Department

Moroni City Police Department

Mt. Pleasant Police Department

Sanpete County Attorney

Sanpete County Sheriff's Office

Snow College Public Safety

Spring City Police Department

US Forest Service

Utah Department of Corrections

Utah Department of Public Safety

Utah Department of Wildlife Resources

Utah Park Services

## Investigator Call-out List:

Sgt. Daniel Mower	Mount Pleasant PD	435-851-9965	Chief Jim Wilberg: 435-851-2069
	Moroni City PD	435-262-7800	
Inv. Wade Hovinga	Utah Wildlife/DNR	435-979-6507	Dir. Doug Messerly: 435-691-9453
Sgt. Devon Krebs	Ephraim City PD	435-851-3643	Chief Aaron Broomhead: 801-910-8352
Sgt. Chad Nielson	Sanpete Co SO	435-851-1110	Sheriff Brain Neilson: 435-8512949
Agt. Matt Bunnell	Utah DPS	435-650-8688	Sgt. Terry Buck: 801-834-1677
Agt. Chris Elscholz	Utah DPS	801-455-6944	Sgt. Chad Jensen: 801-879-3681
Chief Brett McCall	Gunnison Valley PD	435-851-1533	
Inv. Sam Cook	CUCF	801-502-1170	Travis Dimick: 801-634-8924
Inv. Derrick Johnson	CUCF	385-235-1871	Travis Dimick: 801-634-8924
Det. Tyler Johnson	Sanpete Co SO	435-340-0994	Sheriff Brian Neilson: 435-851-2949
Det. Derick Taysom	Sanpete Co SO	801-602-2554	Sheriff Brian Neilson: 435-851-2949

## Definitions:

### OFFICER INVOLVED INCIDENT

An incident which occurs in any city, town, or unincorporated area of Sanpete County and involves any employee of the Sanpete County Sheriff's Office, Snow College Police, Utah Highway Patrol, Utah Department of Public Safety, Utah Department of Corrections, Utah Department of Natural Resources, or any Police Department or Department of Public Safety of any city or town located in Sanpete County.

Incident is further defined to include, but is not limited to, the following:

1. Any intentional shooting, whether or not a fatality results.
2. Any accidental discharge where an individual is injured or killed.
3. Any intentional or accidental use of any other dangerous or deadly weapon against another person, whether or not a fatality results.
4. Any physical altercations, mutual combat, or domestic violence in which the police employee is acting in a private citizen capacity and occurs within the jurisdiction of his or her employer.
5. Any fatal injury, or serious bodily injury, whether intentionally or accidentally caused, resulting from the use of a motor vehicle by an employee while on-duty, representing the employer, and occurs within the jurisdiction of his or her employer.
6. Any fatality, or serious bodily injury, of any person who is in police custody excluding deaths which are the result of disease, natural causes, or conditions which have been diagnosed prior to death.
7. Any fatality, or serious bodily injury, which results from the efforts of an employee attempting to effectively arrest, or otherwise gain physical control of another, while the employee is on-duty.
8. Any Officer involved critical incident as defined by Utah Code 76-2-408 including:
  - a. the use of a dangerous weapon by an officer against a person that causes injury to any person;
  - b. a fatal injury to any person except the officer, resulting from the use of a motor vehicle by an officer;
  - c. the death of a person who is in law enforcement custody, but not including deaths that are the result of disease, natural causes, or conditions that have been medically diagnosed prior to the person's death; or
  - d. a fatal injury to a person resulting from the efforts of an officer attempting to prevent a person's escape from custody, make an arrest, or otherwise gain physical control of a person.

## EMPLOYEE

Unless otherwise indicated, the word “employee” as used herein refers to the following employees of the agencies participating in this protocol:

1. Full-time, part-time, and hourly sworn peace officers, whether or not on- or off-duty and acting for a law enforcement or private purpose at the time of the incident.
2. Full or part-time, non-sworn employees who, at the time of the incident, are on-duty or are acting actually, apparently, or purportedly for a law enforcement purpose.
3. Reserve peace officers who, at the time of the incident, are on-duty or are acting actually, apparently, or purportedly for a law enforcement purpose.
4. Temporary employees and volunteers, paid or unpaid, who at the time of the incident are on-duty or are acting actually, apparently, or purportedly for a law enforcement purpose. This category includes “informants” when they are working as agents under the direction, control, and supervision of a peace officer.

## ACTOR

Any person whose act or actions result in an Officer Involved Incident as defined herein.

## VICTIM

Any person who is injured by the act or actions of the Actor which results in an Officer Involved Incident. When used in this protocol, the word victim does not imply the existence or commission of a crime, but is used simply to designate the person or person or persons injured.

## PROTOCOL MEMBER AGENCY

Any law enforcement agency, state or local, which function in Sanpete County and which have committed to participation in this protocol.

## VENUE AGENCY

The agency or agencies within whose geographical jurisdiction the incident occurs.

## EMPLOYER AGENCY

The agency by whom the involved police employee is employed or with which he/she is affiliated. In many cases the Venue Agency will also be the Employer Agency.

### CRIMINAL INVESTIGATORS

Those investigators from assigned protocol task force members (the LEEDS list), assigned by the County Attorney's Office and the department head of the Venue Agency and led by the Incident Manager to conduct the investigation of the incident. At the discretion of the Incident Manager, additional investigators from the list of specifically designated police officers constituted and maintained by protocol member agencies may be invited to participate.

### ADMINISTRATIVE INVESTIGATORS

Those investigators assigned by the Employer Agency to conduct the administrative investigation of the incident.

### INCIDENT MANAGER

The trained law enforcement officer jointly selected from a prescreened and trained list agreed upon and developed prior to any incident by protocol member agencies (LEEDS list). Upon invocation of this Protocol the County Attorney's Office and the department head of the Venue Agency shall select a law enforcement officer from the list to serve as Incident Manager. Incident Manger is appointed to lead the officer involved incident investigation.

## Dispatcher Checklist:

- Lifesaving Support is the first priority
- Determine if additional personnel are needed
- Radio Broadcast on any outstanding actors (suspects/subjects), vehicles, witnesses, etc.
- Determine if additional dispatch support is needed (refer to Sheriff's Dispatch Protocol)
- Ensure contact has been made with the following:
  - Chief of Police or Department Head of the Venue Agency(s)
  - Chief of Police or Department Head of the involved employee(s)
- Ensure contact has been made with **all** Chiefs of Police, Department Heads or their designee within Sanpete County to determine what support is needed

### Other Items to consider:

*\*\*These are **not** a priority, but can be useful to officers on scene. They may be initiated as/if time and resources permit*

- Current weather and weather forecasts?
- Utilize Google Maps or other internet-based satellite imaging system in determining potential landing zones for Lifeflight, Airmed, etc.
- Media staging areas
- Establish a public information phone line

## Initial Officer(s) Checklist:

- Ensure no continued threat exists
- Identify wounded or injured employees, actors, or victims, provide first aid and request appropriate medical response
- Identify, separate and secure actor(s)
- Radio broadcast any outstanding actors (suspects/subjects), vehicles, witnesses and establish containment if needed.
- Identify, separate and contain potential witnesses
- Coordinate responding resources
- Identify and secure any weapons and/or police equipment (tasers, baton, OC, etc.) that may be involved:
  - Handguns should be secured in the holster if possible
  - Other weapons or police equipment (that were involved) should be secured in place
  - Maintain current condition of all weapons and police equipment unless exigent circumstances exist
- Identify and protect any potential evidence
- Have dispatch initiate contact with Department Heads as per this protocol
- Maintain control of the crime scene until relieved
- Start a written record of personnel involved in the incident and investigation
  - Document name, agency, time in and time out of the crime scene

## Initial Supervisors Checklist:

- Continue to provide medical attention to all injured persons. Consider potential locations for a landing zone if necessary
- Employees that are involved, and do not have life threatening injuries should be accompanied by an officer away from the scene as soon as possible.
  - Each involved employee shall be told not to discuss the incident until asked to do so in conjunction with an OICI investigator
  - In the event an employee's handgun needs to be held for evidence, it shall be secured in the holster until replaced. No manipulation of the handgun should occur.
  - Any other equipment involved, long guns, tasers, batons, OC, etc. will be maintained in their existing condition until secured by an OICI investigator
- If an employee is injured:
  - Assign a responding officer to stay with the injured employee
  - Coordinate the notification of the involved employee(s) families if not already done and assign and ensure an officer stays with the family to act as a liaison
  - Take care to preserve the integrity of any physical evidence that may be present on the employee's person, including his/her equipment and/or clothing
- If an actor or other person has been injured, assign an officer to remain with them and accompany them to the hospital. Officers should ride **in the ambulance** with the injured persons. **Following behind is not advised**
  - When accompanying the actor or other persons in the ambulance, a video and/or audio recording device will be utilized. Look and listen for:
    - Physical evidence – preserve and/or recover
    - Spontaneous or other unsolicited statements
    - Statements made by medical personnel
- Prepare a brief overview of the incident and be prepared to deliver it to the first on-scene member of the OICI Protocol Team
- Prepare a Public Safety Statement and deliver it to the assigned PIO
- Identify and establish a location to stage media

## Invocation of Protocol:

This protocol is effective immediately upon the occurrence of an Officer Involved Incident. The Chief of Police for the venue agency will contact the Sanpete County Attorney's office to determine what protocol team will be utilized and whom from the Sanpete County Protocol team will be selected to assist.

## Optional Invocation of Protocol:

Each participating agency, in the capacity of a Venue Agency or Employing Agency, may itself invoke this protocol upon the occurrence of any incident involving a Law Enforcement Employee in which the Employing Agency deems an outside investigation is appropriate.

- A. The Incident Manager may decline participation in an optional protocol invocation
- B. A specific team may decline participation in an optional protocol invocation
- C. The County Attorney's Office has the discretion to decline participation in an optional protocol invocation
- D. In lieu of an optional invocation of the protocol, the involved agency may investigate the matter itself

## 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 may be performed under two separate investigative formats: Criminal Investigation and the Administrative Investigation.

### CRIMINAL INVESTIGATION

- A. Designation of Investigators
  - a. A criminal investigation that commences pursuant to the invocation of this protocol has priority over any parallel administrative investigation and will begin immediately following the incident for which this protocol is invoked
  - b. The criminal investigation of an Officer Involved Incident commences with the invocation of this protocol, automatically or at the direction of the department head of the Venue Agency. Upon the invocation of this protocol the department head of the Venue Agency and the County Attorney or his designee will select an Incident Manager. Such selection will be from a list of investigators constituted and maintained by protocol member agencies. The selection of an Incident

Manager may be made without respect to the rank or title of other investigators on the list who may also be asked to participate in the investigation

- c. The department head of the Venue Agency shall inform the Incident Manager of the facts stemming from the Officer Involved Incident who shall then assemble a taskforce of additional investigators of sufficient numbers to thoroughly and properly investigate the incident for which the protocol has been invoked. The selection of additional investigators by the Incident Manager shall also be from the list of specifically designated police officers constituted and maintained by protocol member agencies
  - d. Among those investigators selected by the Incident Manager to constitute the taskforce conducting the criminal investigation there shall be one representative of the Employer Agency. The Incident Manager shall not be from the Employer Agency
  - e. The Incident Manager is encouraged to contact the Utah Department of Public Safety to request resources and assistance available to that agency. At the direction of the Incident Manager, resources may be obtained from sources not specifically referenced by this protocol
- B. Venue Determination
- a. When an incident occurs in part in two or more jurisdictions, each of those jurisdictions is a Venue Agency and the respective department heads shall jointly appoint the taskforce Incident Manager in consultation with the County Attorney or his designee.
  - b. When an incident occurs on the boundary of the two jurisdictions, or under circumstances that make determination of the Venue Agency difficult or places venue in dispute the Venue Agency shall be:
    - i. The Employer Agency if the Actor is employed by either boundary agency.
    - ii. Both boundary agencies if Actors are employed by both.
    - iii. The agency which has the greater interest in the case by virtue of having the predominant police involvement in the incident or by virtue of having had the majority of acts leading up to the incident occur within its jurisdiction.
    - iv. The County Attorney shall be the authority to resolve any irreconcilable venue issues.
- C. Scene Security
- a. The Venue Agency is responsible for immediately securing the scene of an officer involved incident. This responsibility includes the preservation and integrity of the scene(s) and its content, access, control, and the identification and sequestration of witnesses. Responsibility for scene security shall change as the investigation continues and the Incident Manager assumes responsibility for the criminal investigation. If, in the judgment of the senior representative of the Venue Agency, weather, or other factors make it imperative evidence collection begin

prior to the designation of the Incident Manager and constitution of the investigative team, such steps may be taken at the direction and under the supervision of that representative of the Venue Agency.

- b. The following crime scene procedures and priorities will be observed as fully as circumstances permit:
  - i. Control of the scene to prevent further injury or criminal activity.
  - ii. Emergency life saving measures has first priority.
  - iii. Injured persons transported to a hospital will be accompanied, in the same vehicle if possible, by a police officer from an Agency other than the Employer's Agency who will:
    1. Identify, locate, preserve, and take custody of physical evidence which may leave the scene with the injured person.
    2. Note and record as accurately as possible any spontaneous or excited utterance or statements which would describe the person's previous mental or physical state or any dying declaration.
    3. Maintain custody of the injured person if that person has been arrested.
    4. Provide information as may be known which is necessary to the medical treatment of the injured person.
    5. Coordinate and communicate as necessary with investigators at the scene.
    6. Provide all information acquired to the Incident Manager.
- c. If a firearm or other deadly instrument was used in the incident, procedures at the scene shall be as follows:
  - i. If the area is secure, loose firearms or other deadly instruments shall be left in place and undisturbed until removal is directed by the Incident Manager.
  - ii. If the area is not secure the senior representative of the Venue Agency shall decide whether any loose firearms or deadly instruments can be safely left in place or whether immediate removal is necessary. If it is determined that the item or items must be removed immediately all efforts shall be made to photograph the item in place and establish its location with reference to other fixed points. Officers from an Agency other than the Employer Agency should be used if reasonably available for this.
  - iii. If any officer still has personal possession of a firearm discharged in the course of an Officer Involved Incident, the senior representative present of the Venue Agency shall take immediate possession of the firearm and holster or case as a unit without removing the firearm from the holster or case. The items shall be immediately secured in a manner consistent with their preservation as items of evidence. The venue representative to

whom the firearms are surrendered shall document facts pertinent to the collection of the items, specifically the make and caliber of the firearm, the person from whom it was received, the items' location at the time it was received, the condition of the item and an indication of how it was used in the incident under investigation. The items shall be so maintained until further disposition is ordered by the Incident Manager. Unless necessary for safety, no attempt shall be made to change the condition of the firearm at the time of its surrender. It shall not be unloaded nor cleared of a jam. The firearm may be made safe to handle by lowering the hammer or putting on the safety so long as those actions taken to make the firearm safe are documented fully by the person taking the actions.

- iv. As deemed appropriate and necessary by the Incident Commander, any officer who discharged a firearm during the course of an Officer Involved Incident, may be required to surrender his uniform and any outer-wear worn during the time of the incident.
- v. Preserve other evidence and the identity of all witnesses.

#### D. Notifications

- a. Upon identification of an occurrence as an Officer Involved Incident, the Venue Agency shall make the following notifications as promptly as possible:
  - i. Intra-department officers as required by the agency's procedures.
  - ii. The Employer Agency, if applicable and if not yet aware.
  - iii. The County Attorney and/or his Deputy.
  - iv. The Medical Examiner or his Investigator upon confirmation of a fatality consistent with the requirements of Utah Code Section 26 Chapter 4.

#### E. Appointment of Investigators by Member Agency

- a. Each member agency may designate one but not more than three experienced criminal investigators to be included on the prescreened and trained list agreed upon and developed prior to any incident by protocol member agencies (LEEDS list), which officer shall be available to participate in the investigation of an Officer Involved Incident. A list of those officers so designated shall be maintained by the Sanpete County Attorney and be updated semi-annually. A copy of the list shall be provided to each member agency and it is from this list that the department head of the Venue Agency and County Attorney shall designate the Incident Manager and from which the task force conducting the criminal investigation of any Officer Involved Incident shall be assembled.
- b. In designating investigators to be listed as available to participate in an Officer Involved Incident investigation, department heads should consider the following qualifications, characteristics, and attributes of those designated:
  - i. Experience in homicide investigations as well as other crimes against persons.

- ii. The ability to effectively interview people of various backgrounds including police officers.
- iii. Good working knowledge of physical evidence collection and preservation techniques and an appreciation of the use and limitations of scientific evidence.
- iv. Good knowledge of police operational procedures and the criminal justice system.
- v. Excellent report writing and communication skills.
- vi. Good organizational and supervisory skills.
- vii. Respected professionally by those whom he or she works for being competent, thorough, objective, fair, and honest.
- viii. Ability to both participate in and direct a complicated investigation.

F. Transporting and Sequestering of Involved Officers

- a. Officers who were present at the scene at the time of an Officer Involved Incident, whether as Actors or witnesses, will be relieved of their duties at the scene as promptly as possible and shall be sequestered at their own police station unless other suitable and agreeable arrangements are made for them. Officers from the Venue Agency not involved in the Incident shall be assigned to accompany involved officers and remain with them to ensure their privacy, accommodate their needs, and preserve the integrity of each officer's statement as they may be gathered later.
- b. If circumstances prohibit removal of all witnessing and involved officers from the scene at one time, those officers who can be identified as Actors as defined herein should be relieved first.
- c. Sequestering officers should not allow witnessing or involved officers to discuss the facts of the incident among themselves or with other persons until such time as they are interviewed by taskforce investigators.
- d. While awaiting interviews by taskforce investigators, witnessing and involved officers should be allowed to contact spouses and family members and should be encouraged to relax and carefully reflect upon the events of the incident making notes as appropriate and necessary. Officers shall also be allowed to contact a legal or union/association representative.

G. Incidents Witnessed by Prisoners

- a. When an incident occurs in a jail facility or other location where prisoners, inmates, or other arrested individuals may be a witness, those persons should be immediately identified and separated from other witnesses and prisoners until they have been interviewed by taskforce investigators.

## H. Reports

- a. Expeditious and thorough investigation and resolution of these matters are necessary. Prompt completion and distribution of reports is essential. All involved agencies and investigators will submit reports to the Incident Manager/Investigator as soon as possible but not later than five (5) days after an Officer Involved Incident. The Incident Manager will assemble all individual reports in one comprehensive incident report and submit this report to the County Attorney's Office. Upon request the County Attorney's Office will provide copies of the complete report to the heads of all agencies having officers involved in an incident as Actors or witnesses.

## I. Equipment

- a. Each member of this protocol will provide equipment as requested by the Incident Manager whether or not officers from that department are involved in either the criminal or administrative investigation. Officers from the department providing equipment may retain custody and operation of the equipment if it appears the interests of the investigation will be served.

## J. Autopsy

- a. At least one member of the taskforce's primary investigative team shall be assigned by the Incident Manager to attend the autopsy. Investigators representing taskforce agencies including the administrative investigators may also attend.
- b. The taskforce investigator assigned to attend the autopsy will brief the medical examiner prior to the post mortem examination. This briefing will be as complete as possible.

## K. County Attorney's Office

- a. The County Attorney's Office has the following roles in Incident Investigations:
  - i. Participate as a legal resource to the Incident Manager and taskforce performing the criminal investigation.
  - ii. Assist and advise the taskforce on the various criminal law issues which may arise during the investigation.
  - iii. Upon completion of the criminal investigation, analyze the facts of the incident as well as the relevant law to determine if criminal laws have been broken. If so, prosecute as appropriate or arrange for a special prosecutor.
  - iv. Upon completion of the investigation and determination of whether or not the officer was justified in his/her actions, the County Attorney's Office shall give written notice of its finding, first to the venue agency, then within seventy-two (72) hours to other involved agencies and to the public.
  - v. The County Attorney has his own independent investigative authority. When deemed appropriate the County Attorney may conduct an independent investigation of an Officer Involved Incident separate but simultaneous with any other investigation.

## ADMINISTRATIVE INVESTIGATION

- A. This protocol recognizes the need of the administrative investigators to acquire information about the incident for the following non-criminal purposes:
  - a. Internal Affairs and determination of whether or not employees have violated department policy or regulation.
  - b. Agency improvement and determination of whether or not department policies, procedures, programs, equipment, and training are adequate.
  - c. Acquiring sufficient information concerning an Officer Involved Incident to appropriately inform its parent governmental body and be responsive to the public and the news media.
  - d. To adequately address claims for damages and prepare for civil litigation that may be initiated by or against the Employer Agency.
- B. While both the criminal and administrative investigations are important and should be actively pursued, investigative conflicts between the two formats shall be resolved by allowing the criminal investigation to have priority. It is intended that this prioritization will preclude competition between the two investigative formats for access to witnesses, physical evidence, and the involved parties and will prevent the criminal investigation from being compromised by an untimely exercise of the Employer Agency's control of the scene, evidence, or witnesses.
- C. The initiation of an administrative investigation and the extent of that investigation is solely the responsibility of the Employer Agency.
- D. Interview statements, physical evidence, toxicology results, and investigative leads which are obtained by administrative investigators by ordering police employees to cooperate 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.
- E. The Employer Agency should immediately assign administrative investigators upon being notified of the Officer Involved Incident. Administrative investigators will be identified to the Incident Manager at the earliest possible opportunity. In addition to gathering information for the Employer Agency, it is anticipated that administrative investigators will act as a liaison between the Incident Manager and the Employer Agency even if no actual investigation is being conducted by the Employer Agency.
- F. The Incident Manager will periodically brief the administrative investigators on the progress of the criminal investigation. The administrative investigators will have access to briefings, the incident scene, physical evidence, and witness statements. Unless, for good reason it is determined otherwise, the County Attorney will provide to the Employer Agency his findings of fact and a complete copy of the reports prepared by the Incident Management Investigative Team. A copy of the County Attorney's findings of fact will also be provided to the Incident Manager.

## NEWS MEDIA RELATIONS

- A. The interests of the news media must be balanced with the requirements of the investigation and with the rights of involved individuals.
- B. While any agency cannot be prohibited from making statements to the news media about an incident, these guidelines are established:
  - a. The department head of the Venue Agency or his designee has the responsibility for making press releases about the Incident and its investigation until such time as the matter is referred to the County Attorney.
  - b. The Incident Manager will provide the Venue Agency with the information from which a press release can be made.
  - c. Other participants in the investigation shall refrain from making separate press releases or discussing the investigation with the press.
  - d. If the Employer Agency is not also the Venue Agency, fewer problems will arise, especially at the early stages of the investigation, if the Employer Agency limits its comments to information which has been cleared for release by the Venue Agency.

