



**A PROTOCOL TO INVESTIGATE
OFFICER INVOLVED FATAL INCIDENTS**

IN

SPOKANE COUNTY

(Revised 01/05/2011)

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STATEMENT OF PURPOSE

The focus of this Protocol is the Investigative process, both Criminal and Administrative. This Protocol is not intended to alter or interfere with any agency's employer-employee relationship reflected in statute or a collective bargaining agreement. Any relevant statutes or contents of a collective bargaining agreement shall take precedence over this Protocol should the contents of this Protocol conflict.

This Protocol addresses the potential for one of the agency's officers becoming involved in a fatal incident, either within or outside of their jurisdiction. As is so typical in these situations, the amount of personnel and other resources used to investigate them lends itself to the use of outside resources. This Protocol allows and, in some circumstances, requires, the use of outside personnel to assist in these investigations.

Therefore, this Protocol and the related procedures are presented for your consideration. It is believed they are sound and take into consideration most of the major concerns related to officer-involved fatalities and their investigation. Permission is hereby granted to law enforcement agencies in other regions to copy, use, modify, or alter them as needed to address the needs of their region or jurisdiction.

I. DEFINITIONS

A. “Actor”

A person whose act is a “factual proximate cause” of a fatal injury to another person; or

A person who intends that his/her act be a “factual proximate cause” of serious bodily injury or death to another person, who is actually killed by another; or

A person who has had physical contact with a suspect who subsequently dies in police custody

B. “Administrative Investigation”

The investigation that addresses issues of compliance with the Policies and Procedures and Rules and Regulations of the Employer Agency. Criminal Investigations may be a source of information used in Administrative Investigations.

C. “Command Group”

This group will normally consist of command level or supervisory personnel from the involved agencies, acting as the Incident Commander. The Command Group will also be the liaison between the executive officers of both the Venue and Investigative Agencies and the Investigative Response Team. The Command Group will work closely with the Investigative Response Team and the Executive Team of the affected agencies to ensure a timely flow of information and updates on the progress of the investigation.

D. “Criminal Investigation”

The Investigation that seeks to determine whether criminal laws have been violated. The Criminal Investigation may not utilize information or evidence obtained as a result of the Administrative Investigation that could, in any way, have been derived from compelled statements of commissioned (sworn) employees.

E. “Employer Agency”

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

F. “Fatal Injury”

Death, or injury which is so severe that death is likely to result.

G. “Incident Commander”

The Incident Commander (IC) is the person in overall control of the entire incident and any resources assigned to the investigation. The IC is led by the Unified Command System and is the individual responsible for the management of all incident operations.

H. “Investigative Team”

Individual personnel or unit resources assigned to any part of the criminal investigation into the incident. Criminal Investigators shall focus their efforts in determining if any violation of ordinances or statutes has occurred.

I. “Member Agencies”

The Spokane County Sheriff’s Office, Spokane Police Department, and the Washington State Patrol.

J. “Officer-Involved Fatal Incidents”

Incidents occurring in Spokane County, involving two or more people, in which a law enforcement agency employee is involved as an Actor, Subject, or custodial officer, where a “Fatal Injury” occurs. Such “Incidents” include, but are not limited to, the following:

- (1) Any fatal injury to a person who is a passenger of a law enforcement officer (such as ride-alongs, emergency transports, etc.)
- (2) Vehicular collisions, and specifically:
 - (a) Including any vehicle fatality which occurs:
 - i. after, although not necessarily as a proximate cause of, police gunfire directed at the suspect or the suspect vehicle;
 - ii. in connection with use of vehicle(s) by police as a “legal intervention” technique intended to apprehend a suspect. “Legal Intervention” includes vehicle ramming, roadblocks, and forcing a vehicle to alter its course by cutting in front of it or by contact.

iii. in police pursuits wherein the suspect vehicle, which is being pursued by law enforcement vehicle(s), collides with another vehicle, a pedestrian, or an object, where that collision did NOT result from contact between the suspect vehicle and a police vehicle or from “legal intervention.”

(b) Excluding any vehicle fatality which involves:

- i. off-duty non-sworn law enforcement employees who are not, at the time of the incident, acting for an actual, apparent, or purported law enforcement purpose.
- ii. solo vehicular collisions in which the only injury is to a law enforcement employee who was the driver and sole occupant of a vehicle which was not involved in a collision with any other occupied vehicle.

K. “Police Employee”

This Protocol applies to employees and to certain other people affiliated with the law enforcement agencies that are members of this agreement, as follows:

Full-time, part-time, and hourly sworn officers, whether on duty or off duty, and whether acting for a law enforcement or private purpose at the time of the incident

Full-time or part-time non-sworn employees who are on duty at the time of the incident, or who are acting actually, apparently, or purportedly for a law enforcement purpose at the time of the incident

Reserve law enforcement officers who are on duty or who are acting actually, apparently, or purportedly for a law enforcement purpose at the time of the incident

Temporary employees and volunteers, whether paid or unpaid, who are on duty or who are acting actually, apparently, or purportedly for a law enforcement purpose at the time of the incident

Informants, while not employees of law enforcement, when they are working under the direct control and supervision of a law enforcement officer

L. “Proximate Cause”

A cause which, in a natural and continuous sequence, produces the fatal injury, without which cause the injury would not have occurred. Reasonable

foreseeability of the fatal injury is not a factor relevant to this definition. “Proximate Cause,” as used in this protocol is not intended to mean the “legal proximate cause” as that term is defined by Washington State case law.

M. “Investigative Response Team”

The investigative response team consists of detectives assigned to the homicide unit of the Spokane Police Department and the Spokane County Sheriff’s Office and includes detectives assigned to the Criminal Investigation Unit of the Washington State Patrol.

N. “Venue Agency”

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

O. “Subject”

The person who is injured by the act of the Actor, whether or not this injury is intentional.

P. “Peer Support Group Counselor” or “Peer Counselor”

A person who meets the qualifications of a “peer support group counselor” as that term is defined by RCW 5.60.060(6)(b), and is not otherwise disqualified from maintaining confidential privileged communications by RCW 5.60.060.

II. INVOCATION OF THIS PROTOCOL

A. Automatic and Immediate

Upon the occurrence of an Officer-Involved Fatal Incident (as defined within this Protocol), the invocation of this Protocol is automatically and immediately in effect, upon the request of the Venue Agency.

B. Invocation When Not Required

1. Each member agency of this agreement, whether in the capacity of a Venue Agency or Employer Agency, may invoke this Protocol upon the occurrence of any critical event involving a law enforcement employee which may have possible criminal liability attached. Upon this unilateral invocation, the matter will be investigated under the provisions of this Protocol. Examples are as follows:

- A fatality which is not covered by this Protocol

- An officer-involved incident where the injuries are not fatal
2. In lieu of invoking this Protocol, the involved agency may investigate the matter by itself or seek aid from other agencies outside of the Protocol's requirements.

C. Upon The Request of Another Jurisdiction

The request for investigative assistance in an officer involved critical incident would have to be made by the appropriate head of the involved agency to the Board of Directors, which is comprised of the Spokane Police Chief or designee, the Spokane County Sheriff or designee and the Captain or designee of the Spokane District of the Washington State Patrol.

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 any incident, investigations of these matters must be performed under two separate investigative formats: the Criminal Investigation and the Administrative Investigation. The Administrative Investigation shall be the responsibility of the Employer Agency, pursuant to its policies and procedures.

A. The Criminal Investigation

1. Investigative Priority. The Criminal Investigation has investigative priority over the Administrative Investigation and it begins immediately after an incident has occurred. The Criminal Investigation is performed by the Response Team headed by a case detective and assistant case detective appointed from the Investigative Response Team.
2. Investigative Goals. The goal of the investigation is to develop all available relevant information about the incident. When the investigation is completed, including all forensic testing, toxicology report and autopsy report, the case will be submitted to the County Prosecutor. The investigation will contain a summary of facts but not a recommendation of criminal liability of those involved. The exceptions to this procedure are when State statute dictates an arrest or when there is a danger to the public if the subject is not immediately incarcerated. The investigation will allow the County Prosecutor to make a final determination on the presence or absence of criminal liability on the part of those involved in the incident, specifically:
 - a. To determine presence or absence of criminal liability on the part of those involved in the incident, specifically:

- (1) To determine whether the nature and the quality of the conduct involved is prohibited by statutes which provide for criminal penalties upon conviction; and
- (2) If criminal conduct does exist, determine the identity of the person(s) responsible for that conduct; and
- (3) If criminal conduct does exist, determine the degree of crime(s), the existence of any factual or legal defenses to that crime, and the presence or absence of any factors which would mitigate or aggravate punishment for that crime.

b. The investigation will also provide factual information to the Employer Agency's management for its internal use.

While the Criminal Investigators do not direct their investigative attention to Administrative concerns, it is recognized that the Criminal Investigation's results are of proper interest to Agency Management for its internal use, and those results are fully available for that purpose.

3. Investigative Requirements. The investigation is required to follow the rules of law which apply to all criminal proceedings; these include constitutional, statutory, and case law.

The investigation will be performed in a manner that provides both the appearance and the reality of a thorough, fair, complete, and professional investigation, free of conflicts of interest.

4. Investigative Teams. Within the Command Group, the Criminal Investigation will be divided into one or more teams headed by a case detective and an assistant case detective appointed from the Investigative Response Team (the number depending upon the complexity of the incident and upon the number of people to be interviewed). Additionally, investigative support teams may be assigned and may be composed of investigators and investigative supervisors from any member agency operating under the supervision of the Command Group unless other separate agreements prevail.
5. Considerations Concerning the Assignment of Case Detectives and Assistant Case Detectives. Assignment of primary investigators is of great importance. Generally, the best available investigators should receive the assignment. The City and County will provide sufficient training so that the investigative skills of City and County employee Investigative Response

team members will be sufficient to meet best practices in the investigation of critical incidents.

6. Venue Determination

- a. More than one jurisdiction: When an incident occurs in two or more jurisdictions, each of those jurisdictions is a Venue Agency.

- b. On boundary of jurisdictions: When an incident occurs on the boundary of two jurisdictions, or at a location where the relevant boundary is not readily determined or is in dispute, the Venue Agency(ies) shall be:
 - (1) The Employer agency if the Actor is employed by either boundary agency.
 - (2) 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 fatality occurring within its jurisdiction.

- c. Custodial Deaths
 - (1) For custodial deaths, the agency having custody of the person at the time his/her distress was first discovered is a Venue Agency.
 - (2) A Venue Agency may also be the one within whose jurisdiction any fatal action was inflicted.
 - (3) If the death was caused by conduct which was apparently criminal, the lead Venue Agency is one within whose geographical jurisdiction the act occurred. If there is apparently no criminal conduct involved in the cause of death, the lead Venue Agency is the one having custody of the Subject when distress was first discovered.

- d. If a commissioned law enforcement officer is involved as the Actor in an incident which occurs within the jurisdiction of another member agency, and if that officer was acting in the performance of his/her duty at the time of the incident, the Venue Agency may elect to relinquish its role in the Criminal Investigation to another participating agency.

7. Vehicle Collision Incidents. Vehicle collision fatalities shall be investigated

by Collision Investigative Team members. They may be joined by collision investigation specialists from any member agency. The vehicle collision investigation specialists have the primary responsibility for documentation, collection, and preservation of physical evidence.

If the fatality results from an intentional collision (i.e., use of “legal intervention techniques”) OR if vehicle movement was merely incidental to a fatality which was caused by non-vehicular means, the collision investigation specialists may be used by the Investigative Team for that phase of the investigation. In these cases, the collision specialist’s role will be limited to investigation of physical movement of the vehicle(s) and to collision reconstruction, or to provide other technical assistance as requested by the investigative team

8. Scene Security. The Venue Agency has initial responsibility for immediately securing crime scene(s) within its territorial jurisdiction. This responsibility includes preservation of the integrity of the scene(s) and its/their contents, controlling access to the scene(s), and the identification and separation of witnesses. This responsibility may be changed by mutual agreement as the investigation progresses.
9. Responsibility for Physical Evidence Collection, Preservation, and Analysis. Applicable agencies having the capability to assist lead investigators in the documentation of the scene(s) and for assisting in the collection, preservation, and analysis of physical evidence should do so.

Prior to the arrival of Forensic Unit, there are several important duties to be performed by law enforcement personnel; see Attachment B.

In unusual cases, the Command Group agencies may all agree that the Forensic Unit need not be called to process the scene(s) and to collect evidence, but shall be used if any Command Group agency desires.

Forensic Unit will assist detectives with evidence and scene documentation, collection, and preservation. Forensic personnel so involved will work under their normal supervisory authority.

Prior to final relinquishment of the scene, the lead detectives, crime scene detectives and Investigative Response Team supervisors will confer to determine if the collection of evidence is complete. At this time the Administrative Investigators will have an opportunity to walk through the scene with the crime scene detectives.

10. Notifications. Upon identifying an occurrence as an Officer Involved Fatal Incident, the Venue Agency(ies) shall make notifications as promptly as possible to the following:

- a. Intra-departmental officers, as required by that agency's procedures;
- b. The Employer Agency, if applicable and if not yet aware;
- c. The Prosecuting Attorney's Office via the on-call Deputy Prosecutor;
- d. The Actor's labor relations representative;
- e. The appropriate Crime Lab or Forensic Unit;
- f. For vehicular collision deaths, applicable traffic investigation specialists who, by prior agreement, will respond in such instances;
- g. The Medical Examiner's Office upon confirmation of a fatality;
- h. The appropriate Public Information Officer;
- i. Custodial death notifications as follows:
 - (1) The County Sheriff or designated representative (Jail Commander);
 - (2) The Medical Examiner's Office;
 - (3) The Chief of Police or designated representative if the facility is other than the County Jail and is within the geographic jurisdiction or city administrative control of other than the County Sheriff's Office.
- j. Peer Support Group Counselors.

B. SCENE SECURITY AND PROCEDURES

(See also Field Supervisor's Checklist, Attachment A.)

1. Emergency Life-saving Measures. Emergency life-saving measures have the first priority.
2. Fatal Injuries. If a person is transported to a hospital with "fatal injuries," an officer should accompany that injured person in the same vehicle in order to:
 - a. Locate, preserve, safeguard, and maintain the chain of custody of

physical evidence;

- b. Obtain a dying declaration, spontaneous statement, statement of then-existing or previous mental or physical state;
 - c. Maintain custody of the person if he/she has been arrested;
 - d. Provide information to medical personnel about the incident as relevant to treatment, and obtain information from medical personnel relevant to the investigation;
 - e. Identify relevant people, including witnesses and medical personnel;
 - f. Be available for contacts with the Subject's family, if appropriate.
3. Determining Scene Maintenance/Public Safety/Officer Safety Considerations.
- a. The first non-involved supervisor or, if none is available, the first non-involved officer on scene should inquire as to the circumstances of the incident in order to faithfully fulfill law enforcement's responsibilities to the public and other responding officers.
 - b. The first non-involved supervisor or, if none is available, the first non-involved officer on scene should determine:
 - (1) If any suspects are outstanding or have fled the area.
 - (2) If there are any immediate hazards to the public or other responding personnel.
 - (3) The location of any witnesses, especially non-law enforcement witnesses to the event.
 - (4) The location of evidence or likely location of evidence.
 - (5) The direction of any firearms discharges that might indicate the potential for injured officers or civilians not immediately apparent at the scene.
 - c. When speaking with Actors, questions shall be limited to officer/public safety inquiries and questions necessary to determine the scope of the scene, the location of witnesses, and likely location of evidence. This is not intended to prevent an officer

from being required to provide information regarding the status of suspects and potential danger to others, or from otherwise voluntarily providing information.

- d. When possible, attempt to elicit this information from other than Actors.
 - e. If speaking to Actors, restrict their responses to these scene maintenance issues.
4. Scene Perimeter. The scene(s) must be secured immediately, with a perimeter established for each scene a sufficient distance away to safeguard evidence. In most circumstances an inner (evidence) perimeter and an outer (control) perimeter are preferable.
- a. Access to the inner (evidence) perimeter of the scene(s) must be limited only to personnel who must enter for valid investigative purposes as authorized by the Incident Commander or, later, by the Investigative Team.
 - b. A written log will be established as quickly as possible to identify all persons entering the inner (evidence) perimeter of the scene(s), the time of their entry and exit, and the reason for entry.
 - c. When not needed for life-saving efforts, entry by fire and ambulance personnel should be restricted to the absolute minimum necessary to perform the needed duties.
 - d. No items shall be moved inside the scene(s) or removed from the scene without approval of the Investigative Team unless absolutely necessary for public or officer safety or for preservation of evidence. If removal without approval is necessary, the removal must be witnessed and a report must be completed. The report shall state the identity of the person removing the described object, the reason for removal, a witness to the removal, and the time of removal. The item should be photographed prior to removal, if possible.
5. Photographs. Photographs may be taken of exterior scenes from outside of the inner (evidence) perimeter to show lighting conditions, weather conditions and street location. Patrol personnel should not attempt to go inside the evidence perimeter unless the items being photographed are of such a fragile nature that waiting for the Investigative Team and/or Forensic Unit would be impractical due to the danger of the evidence being destroyed by weather or other factors. If photographs are taken by patrol personnel, a report shall be written by the person who took the

photographs

6. Weapons. If any type of weapon or instrument was involved in the fatal incident, the supervisor at the scene will promptly see to the security and/or collection of such items, as follows:
 - a. If the area is secure, loose weapons or instruments shall be left in place and undisturbed
 - b. If the area is not secure, the supervising officer at the scene shall decide whether the items can be safely left in place or whether prompt removal is necessary. If such items must be moved or removed for protection, they should be photographed in place prior to removal if possible and a report written
 - c. If an involved officer still has personal possession of a weapon he/she used in the incident, it is usually acceptable for the involved officer to maintain custody and control of the weapon (handgun) on their person during this period of time, as long as an uninvolved officer/investigator is assigned to stay with the involved officer to insure the weapon is not altered. This procedure shall be adhered to until the Investigative Response Team is available to properly document the involved officer's outer appearance and condition of the weapon prior to collecting it. If the responding supervisor/officer for any reason determines the need to take possession of an involved officer's weapon or instrument prior to Investigative Response Team arrival, the weapon should be photographed and documented in the condition it was found prior to being removed from the involved officer. The supervisor/officer should make note of the weapon's general description and condition, the appearance and location of any trace evidence adhering to it, and where the weapon or instrument was first observed by the supervisor/officer.
 - d. In shooting incidents, the investigator shall examine the firearms of all officers who were present at the time of the incident to ensure that all discharged firearms are identified and collected. This collection and processing of all weapons involved in a critical incident will be done so that all evidence including trace evidence will be documented, photographed when practical and collected by the Investigative Team. All weapons involved in the critical incident will be placed on Police Property in adherence to Property Room procedures. Equipment taken from an officer for evidence will be replaced by the Employer Agency in accordance with their policies.
 - e. Any officer receiving a weapon or instrument from another person, or obtaining it otherwise, shall note its serial number if readily available, as described above without removing the weapon from

its holster or otherwise compromising physical evidence, and shall preserve the chain of evidence at all times.

- f. In general, weapons and instruments will not be disturbed in any way. They shall not be handled by anyone other than the investigator, the Forensic Unit or appropriate crime lab personnel, and these investigators shall handle them minimally to preserve the exact state of the weapon or instrument when received.
 - g. Additional live ammunition will be collected from each Actor Officer by the Investigative Team (or from an appropriate source if the officer has insufficient amounts) in order to facilitate any subsequent ballistic testing regarding this incident.
 - h. Firearms which do not need to be retained in evidence, as determined by the Investigative Team in consultation with the Prosecutor's Office, and after conferring with the legal department of the Employer Agency, will be returned to a designated representative of the Employer Agency promptly after testing has been completed.
7. Other Physical Evidence. Any other physical evidence at the scene which is in danger of being contaminated, destroyed, or removed must be promptly and effectively observed, recorded and then protected for subsequent collection. Examples are evidence adhering to live participants (such as bloodstains), footprints and fingerprints, volatile substances, various types of trace evidence, and firearms discharge evidence.
8. Transportation and Separation of Involved Officers. The transporting and separation of involved officers shall be conducted as follows:
- a. Officers who were present at the scene at the time of the incident, whether Actors or Witnesses, will be relieved of their duties at the scene as promptly as possible and shall be sent to their own agency station unless other suitable and agreeable arrangements are made for them. Officer(s) not involved in the incident shall be assigned to accompany these officers, either in a group or individually. Actors should be driven to the station by an uninvolved officer.
 - b. If circumstances prohibit removal of all witnessing and involved officers from the scene at once, those officers who were Actors should be relieved first.
 - c. An uninvolved officer shall remain with the Actors, either in a group

or individually, until these officers are interviewed or have been released by an authorized commander. The sequestering officers are present to ensure the officers have privacy, that their needs are accommodated and to ensure the integrity of each officer's later statements to investigators. The sequestering officers should avoid conversation regarding the incident under investigation and should not be present during confidential (privileged) conversations.

- d. Actors are not to discuss the case among themselves, with sequestering officers, or with others, until the Criminal Investigative Team authorizes such. Exceptions to this would be the officer's legal counsel, or others who may have evidentiary privileged communications with an employee.
- e. While awaiting interviews, Actors are encouraged to relax and to carefully reflect upon what occurred in preparation for the follow up investigative process.

9. Inmates. When an incident occurs in a jail facility or other location where inmates may be witnesses, inmates should be identified and separated if possible, pending interviews by criminal investigators.

10. Interviewing Law Enforcement Employees.

- a. Generally speaking, it is the intent of Investigative Response Team to obtain details of any officer involved incident as soon as possible after the event by interviewing and obtaining reports/statements from involved officers and witness officers. When interviewing Actors, the Investigative Team will comply with any restrictions contained in bargaining unit agreements applicable to the Actor.
- b. Investigative Response Team should always give the involved officer the opportunity to provide a voluntary statement or give details of the incident at any point during the investigation. If the Actor has invoked his/her right to counsel, such requests must be coordinated through such counsel. Investigative Response Team should be aware that agency policies, union agreements and officer's constitutional rights may delay access to this statement and reasonable effort to identify and comply with these issues should be made. In no event should response team members attempt to question an involved officer who has invoked his/her right to counsel.
- c. Investigative Response Team does not have the authority to issue

“Garrity” orders of involved officers. This can only be done by the involved officer’s agency head or designee. If an Investigative Response Team member discovers that a “Garrity” order is being issued prematurely they should take steps to prevent this from taking place.

- d. Before a “Garrity” order is given to an involved officer by his/her employer agency the Investigative Response Team member should be given a reasonable amount of time to talk to witnesses, review evidence, and consult among themselves and with the County prosecutor regarding the facts of the case and determine if a “Garrity” order is advisable.
- e. In-Custody interviews will be conducted as any other “In-Custody” would be and Miranda issues are applicable.
- f. Involved officer interviews should be conducted separately.
- g. Investigators shall request to record any interviews.
 - (1) All tapes or digital recordings will be retained as evidence until all aspects of the case are cleared.
 - (2) If an involved officer authorizes the investigative recording, and also requests to audio record his/her interview, the request should not be denied by the investigator conducting the interview. The involved officer’s audio recording is solely for his/her use with the officer’s legal counsel and/or union representative and shall not be disclosed to anyone other than said representatives without permission of the Agency Head.
- h. Law enforcement employees have the same rights and privileges regarding Response Team interviews that any other citizen would have, including the right to remain silent, the right to consult with an attorney prior to an interview and the right to have an attorney present during the interview. The representative attorney or attorneys should be allowed to consult about the facts of the incident privately with only one law enforcement employee at a time.

11. Intoxicant Testing

- a. Criminal Investigation

Law enforcement employees have the same rights and privileges

that any civilian would have regarding intoxicant testing. When Investigative Team members determine that a law enforcement employee's state of sobriety is relevant to the investigation, they have these options:

- (1) Obtain the blood, breath, and/or urine sample by valid consent;
- (2) Obtain a search warrant to obtain samples;
- (3) When applicable, utilize the provisions of the Vehicle Code or state statutes for vehicle driving incidents;
- (4) If an arrestee refuses to comply with the request for a sample, attempts will be made to obtain the sample in accordance with case law.

b. Administrative Investigation

- (1) Intoxicant test results obtained by Investigative Team members are available to the Administrative Investigators.
- (2) In the event the Investigative Team does not obtain samples for intoxicant testing, the Employer Agency may then seek to obtain samples. The Investigative Team members have the first opportunity, however;
 - (a) Authority for the Employer Agency to obtain samples includes (1) valid consent and (2) ordering the employee to provide the samples based on the employment relationship.
 - (b) Some departments have blanket orders regarding employee intoxicant testing while other departments make decisions on a case-by-case basis.

c. Miscellaneous

- (1) Urine is best for drug screening and is sufficient for alcohol screening.
- (2) Samples should be collected promptly after the incident for the most meaningful results.
- (3) A law enforcement employee may request to voluntarily provide sample(s) for intoxicant testing even if Investigative

Team members haven't obtained samples. This may include a breath test (BAC). Similarly, a person from whom Investigative Team members have obtained samples may request that another sample be taken for independent testing. The taking of this sample and subsequent testing will not be at the expense of the Command Group or Employer. Such a request will be promptly granted.

12. Autopsy

- a. At least one member of the Investigative Response Team or the Collision Response Team will attend the autopsy. Investigators representing other Command Group agencies may also attend. Attendees should have some experience in attending autopsies whenever possible to minimize distractions during the medical examination.
- b. The autopsy pathologist will receive a complete briefing prior to the post-mortem examination. This briefing—which includes all information known to that time which may be relevant to the cause, manner, or means of death—shall be given by at least one member of the Investigative Response Team, the Collision Response Team and/or the applicable agency's evidence technician team.
- c. For autopsies conducted in Spokane, and for autopsies conducted in other counties where the pathologist agrees, the Spokane County Sheriff's Office Forensic Unit has the responsibility for assisting investigators in documenting and collecting physical evidence. In vehicular collision deaths, the Washington State Patrol or other accident investigation specialists have this responsibility. Assistance, if appropriate, will be provided by the applicable agency's crime scene technicians.
- d. Although the Medical Examiner has authority to determine who attends an autopsy, it is permissible to allow attendance by a licensed medical doctor or licensed private investigator, or by a recognized professional criminalist who has been retained by representatives of the decedent.

13. The County Prosecuting Attorney's Office

The County Prosecutor's Office has the following roles in Incident Investigations:

- a. Assist and advise the Investigative Teams on various criminal law

issues which may arise, such as Miranda, Garrity, voluntariness, search and seizure, probable cause to arrest, detentions and releases, elements of crimes, immunity, legal defenses.

- b. Upon completion of the Criminal Investigation, analyze the facts of the incident as well as the relevant law to determine if criminal charges are appropriate. If so, prosecute as appropriate.

14. Report Writing

- a. All criminal investigators will write reports documenting their participation in the investigation.
- b. The investigators within each Investigative Team will allocate and divide among themselves the responsibility for documenting interviews and observations.
- c. Prompt completion and distribution of reports is essential. All involved agencies and investigators will strive for report completion and distribution within 7 days of any investigative activity. The Medical Examiner's report may be delayed beyond 30 days pending results of some scientific tests.

IV. THE ADMINISTRATIVE INVESTIGATION

No administrative investigation shall commence until all physical evidence and all voluntary statements have been documented and collected by the criminal investigation response team. No police employee who was involved in any investigative capacity during the criminal investigation shall act as an investigator in any administrative investigation of the same event. Evidence collected during the administrative investigation (after any evidence is compelled from any employee) shall not be made available to any criminal investigator or any prosecutor under any circumstance without providing written notice to the compelled employee.

V. MEDIA RELATIONS

The interests of the public's right to know what occurred must be balanced with the requirements of the investigation and with the rights of involved individuals.

As in all other cases, care must be taken to ensure that intentionally misleading, erroneous or false statements are not made to the media.

Once the Investigative Team has initiated an investigation, all media releases related to the investigation shall be made by a Public Information Officer (PIO) with the approval of the Command Group and/or the Team Commander.

It shall be the responsibility of the Employer Agency to determine when the involved officers' names will be released to the public, pursuant to their policies and procedures. Any release of officers' names will be coordinated with the Team Commander. Any release of evidence to the media will only be done with the approval of the lead investigative supervisor and detective.

Designated Public Information Officers shall adhere to the PIO Protocol.

While any agency cannot be prohibited from making statements to the news media about the incident, these guidelines are established:

A. The Venue Agency

The Venue Agency's PIO will coordinate and release information during the initial phase of the incident. Once the incident command post secures, the duties of the PIO will shift to the acting Team Commander's agency.

Officers in close contact with the Command Group are in the best position to comment about the facts of the case and the progress of the investigation.

B. The Employer Agency

If the Employer Agency is not also the Venue Agency, fewer problems may arise, especially at the early stages of the investigation, if the Employer Agency limits its comments to the following areas:

1. The employer-employee relationship;
2. Information which has been cleared for release by the Investigative Team Commander

C. The Forensic Unit/Lab of the Applicable Member Agency

Information released will usually be confined to general laboratory procedures, scientific facts and principles and testing procedures. Specific results of searching, testing and analysis will not be released without clearance from an investigator from the primary Investigative Team.

D. The Medical Examiner's Office

Release of information will generally be limited to the following:

1. As defined by state law, only the cause and manner of death are public record. The written autopsy report is not disclosable. Involved

agencies should be provided information about cause and manner of death prior to public release;

2. The identity of those present at the autopsy, including the identity and affiliation of the pathologist(s);
3. The general nature of further medical testing or medical investigation being done;
4. Information obtained from the Incident Investigators or from the involved agencies will NOT be released by the Medical Examiner's Office without prior authorization from those agencies;
5. Information regarding the holding of a Coroner's Inquest;
6. Comments upon the verdict of a Coroner's Inquest Jury or upon any testimony or evidence presented to the jury;
7. The role of the Medical Examiner's Office in the investigation of death, in general terms.

If Investigative/Collision Response Team members determine that the release of a specific piece of information would materially jeopardize the investigation, they shall notify those agencies possessing that knowledge of the hazards of releasing it.

Interruptions to the investigators will be minimized if the agencies assign particular individuals to be the sole designated contacts with the news media.

VI. ACCESS TO REPORTS AND EVIDENCE

Material which is created or collected by, or at the request or direction of, the Criminal Investigative Team (including the Crime Lab/Forensics Unit) will be made available in a timely manner to those agencies which have an interest in the investigation, including the Administrative Investigators.

The material will include, but is not limited to:

1. Reports, written and collected;
2. Access to physical evidence;
3. Photographs, diagrams, and video tapes;
4. Audio tape recordings

When the Response Team and/or Prosecuting Attorney's Office concludes that the physical evidence collected by the Criminal Investigators is no longer needed for

criminal law purposes, the Employer Agency shall be notified of that decision so it can assume responsibility for preservation of such evidence if it desires.

VII. CONFIDENTIALITY

Investigators, including protocol Public Information Officers, shall not share information considered "Confidential" with individuals other than assigned investigators.

A. Information considered confidential:

1. Documents related to a protocol investigation;
2. Verbal statements or conversations related to a protocol investigation;
3. Information that would compromise an investigation;
4. Information and/or records deemed confidential by law;.

B. Information not considered confidential:

1. Information shared with agencies and individuals outside of the protocol that have been requested by assigned investigators to assist in an investigation. The amount of information shared shall be no more than that information which is pertinent to their role in the investigation.
2. Information shared by the Investigative Team Commander and/or Supervisors with the involved agency's administration that does not compromise an investigation.
3. Information cleared by the Investigative Team Commander for release.
4. Spokane City/ County Protocol with member agencies.

Attachment A

OFFICER-INVOLVED FATAL INCIDENTS FIELD SUPERVISOR'S CHECKLIST

1. Life-saving efforts are the first priority.
2. Request additional patrol officers, as necessary.
3. Assign uninvolved officer(s) to ride in ambulance with injured person(s) for purposes of: (a) securing, protecting and recovering physical evidence; (b) custody of arrestee; (c) documenting spontaneous and other unsolicited statements; (d) relaying information to and from medical personnel; (e) identifying medical personnel; (f) other relevant observations.
4. Protect sensitive investigative information; use caution on radio broadcasts. Use cellular phone when possible.
5. Have notifications made per department procedures: chain of command, Forensics Lab, Detectives, Medical Examiner/Coroner, Internal Affairs, Prosecuting Attorney, City Legal, Risk Management, Press Info Officer, bargaining unit representative, Peer Support Group Counselors.
6. Ask only public safety/officer safety/scene management questions. Examples are:
 - Are there any outstanding suspects that have fled?
 - Are there any immediate hazards to the public or other responding officers?
 - The location(s) of any witnesses, especially non-law enforcement witnesses.
 - The location of evidence or likely location of evidence.
 - The direction of any firearm discharges that might indicate the potential for injured officers or civilians not immediately apparent at the scene.
7. Generate radio broadcasts on outstanding suspects, vehicles, witnesses, etc.
8. Identify and secure all scenes (original felony, escape/pursuit route, fatal scene, collision scene, suspect vehicle, officer's vehicle, hospital, etc.) with generous perimeters. Prevent scene contamination. Adjust boundaries outward as necessary. Establish an inner (evidence) perimeter and outer (control)

perimeter of generous size, especially early in the process.

9. Limit entry into scene(s) to absolute minimum.
10. Have scene log started to record every entry and exit to inner (evidence) perimeter (who, what time, why).
11. Shooting officer(s) with guns in possession: leave in holster. Don't open or disturb condition or trace evidence. If scene secure, leave discarded weapons in place, untouched, if safe.
12. Have Actor(s) and Witness Officer(s) taken to station by independent officer(s). Direct all not to talk about the incident (except to counsel, clergy or others holding evidentiary privilege).
13. Have Actor(s) and Witness Officer(s) sequestered with independent/peer support officer until investigative interviews.
14. Locate, identify and sequester civilian witnesses, as possible.
15. Photograph without disturbing, contaminating or collecting anything, until Forensics Unit arrives.
16. Protect (photograph and collect if necessary) physical evidence in imminent danger.
17. Start area canvass for more witnesses and to locate relevant vehicles/weapons/people, etc.
18. Determine what responding/scene officers have learned and what they have done.
19. Collect your information and thoughts to brief investigators.

Attachment B

DUTIES OF FIELD OFFICER(S) AT OFFICER-INVOLVED FATAL INCIDENTS

Per the Officer Involved Fatal Incident Protocol, the Sheriff's Forensic Unit (and/or WSP Crime Lab or other applicable labs outside Spokane County) has the responsibility for assisting investigators in the documentation of the scene and for assisting in the collection, preservation and analysis of physical evidence. Pending the arrival of laboratory/Forensic staff at the scene, certain tasks should be undertaken by initial responders of local police agencies. The quality of fragile evidence collected or information obtained can be greatly enhanced if local agency personnel take prompt action rather than waiting for the arrival of the Forensic Lab personnel.

TASKS TO BE COMPLETED PROMPTLY, PRIOR TO ARRIVAL OF FORENSIC UNIT PERSONNEL

1. Take immediate steps to secure the scene and control access and routes both within the scene and to the incident site.
2. Take a series of photographs to show things that will or may likely change, including emergency medical activities and locations of vehicle. Take care to minimize inadvertent alteration of evidence while taking photos. Stay out of controlled areas.
3. Protect (or collect if necessary) evidence in danger of being lost or destroyed, such as shoe impressions/prints or firearms evidence. Consider the ambulance and emergency room as possible locations of evidence. If shoe or tire impressions are evident, photograph if necessary and keep protected so the Forensic Unit can process them.
4. Record transient detail such as vehicles in area, lighting (natural and artificial), windows and blinds or curtains (open or closed), doors (locked or unlocked, windowed or windowless), weather, furniture moved for EMTs, etc.
5. Record names and information necessary to recontact everyone who entered the scene so that elimination shoe and fingerprints may be obtained later if needed.
6. Ensure that someone starts a written log of all persons entering the inner perimeter(s), the time of their entry and exit, and the reason for entry. Multiple scenes separated by distance will ordinarily require a log for each scene.
7. Make a preliminary sketch of scene without taking measurements. The entrance

to the scene for purposes of sketching should be minimized to avoid evidence destruction. If the scene or a portion thereof is outside, start sketching this area first to minimize inadvertent alteration of the interior.

Interview sketches which do not illustrate any evidence are very helpful to investigators during the early stages of the investigation as a briefing aid and an aid during individual interviews with witnesses.

CRIME LAB/FORENSIC UNIT PERSONNEL

When Crime Lab/Forensic Unit personnel arrive, they will assist and support detectives who are responsible for scene processing. Forensic Unit Technicians may be requested to assist with sketch preparation, evidence transport, lighting and other duties under the direction of the Investigative Team. Their supervisory chain of command is still with their respective units.

ATTACHMENT C

STANDARD OPERATING PROCEDURES

MISSION: TO PROVIDE EXPERT INVESTIGATIVE AID TO ALL LAW ENFORCEMENT AGENCIES WITHIN THE SPOKANE COUNTY

GOALS OF THE RESPONSE TEAM:

1. To investigate incidents following the Officer Involved Fatal Incident Protocol Manual adopted by the Spokane County Sheriff's Office, the Spokane Police Department and the Washington State Patrol.
2. To ensure public trust by conducting professional and consistent multi-jurisdictional investigation of major incidents, primarily officer involved fatalities.
3. To maximize the availability and sharing of the latest technological equipment and techniques.
4. To consolidate and share the skills of the most experienced supervisors and investigators.
5. To ensure thorough investigations are conducted in a timely manner.

BOARD OF DIRECTORS:

The Board of Directors of Spokane Investigative Response Team shall consist of:

- The Spokane County Sheriff or his/her designee
- The Spokane Police Chief or his/her designee
- The Washington State Patrol Captain assigned to the Spokane District or his/her designee

Representatives of the Prosecutors Office and the Medical Examiners Office will be invited to all board meetings and their input will be solicited. For voting purposes and decision-making, it will be the majority rule of the Board of Directors.

The Chairman of the Board of Directors will rotate every three years from the above listed agencies. The Chairman of the Board of Directors shall schedule a meeting of the Board in January of each year. The purpose of the meeting will be to receive a comprehensive report from the Response Team Commander concerning activities of the Team over the past year, address issues pertaining to the operation and support of the Team and address changes to the Response Team protocol. Special

meetings may be called at any time by the Chairman of the Board. Special meetings may also be requested by the Response Team Commander.

TEAM MEMBERS/RESPONSIBILITIES:

TEAM COMMAND GROUP:

The Command Group is comprised of the Captains from the Spokane County Sheriff's Office and the Spokane Police Department assigned to the Investigation Division and a Lieutenant from the Washington State Patrol. The Command Group will be responsible for the incident command and will be the liaison between the executive officers of both the Venue and Investigative Agencies and the Investigative Response Team. The Command Group will work closely with the Investigative Response Team and the Executive Team of the affected agencies to ensure a timely flow of information and updates on the progress of the investigation. The Team Command Group will ultimately be responsible for the work product of the Investigative Response Team.

TEAM COMMANDER:

The Incident Response Team Commander shall be the lieutenant in command of the homicide unit of either the Spokane County Sheriff's Office or the Spokane Police Department. The Commander position will rotate every two years between the two listed departments. At the discretion of the Board of Directors, that assignment length can be adjusted. The Commander has the overall responsibility to manage and coordinate assigned incidents as well as ensure the readiness and training of the team. The Response Team Commander reports to the Board of Directors and the Command Group.

The Collision Response Team Commander, in the case of a vehicular collision incident, shall be the lieutenant in command of the homicide unit of the Spokane County Sheriff's Office or the Spokane Police Department. The responsibilities are the same as outlined above.

ASSISTANT TEAM COMMANDER:

The Assistant Team Commander shall be the homicide lieutenant from the other agency that is not filling the Commander's position. The Assistant Commander has the overall responsibility to manage and coordinate assigned incidents in the absence of the Team Commander. The Assistant Team Commander reports to the Team Commander or the Command Group in the Team Commander's absence. The responsibilities of the Assistant Team Commander include arranging, coordinating and documenting all training for the Team, maintaining records of Team call-outs, Team personnel records/roster, and Team equipment inventory and

managing the financial transactions/records of the Team.

The Collision Response Team Assistant Commander, in the case of collision incident, shall be the lieutenant in command of the homicide unit of the Spokane County Sheriff's Department or the Spokane Police Department that is not filling the commander's position. The responsibilities are the same as outlined above.

ROLES OF THE TEAM COMMANDER AND ASSISTANT COMMANDER DURING A CALL-OUT:

The command of a particular incident will be determined by which agency is the Venue or Employee's Agency. The Team Command Group Officer and the Team Commander of a singular incident will not be a member of the Venue or Employee's Agency. If two of the three involved agencies are involved in a fatal incident the lead investigative agency will be the uninvolved agency. The Board of Directors will decide which agency will assume the role of Team Commander for the incident.

INVESTIGATIVE TEAM SUPERVISORS:

- Investigative Team Supervisors shall be sergeants from the Spokane County Sheriff's Department, the Spokane Police Department and the Washington State Patrol. The sergeants from the Sheriff's department and the Police department will be assigned to the homicide units, and the sergeant for the State Patrol will be assigned to the criminal investigation unit at the Spokane district. If an additional supervisor(s) is needed, the Team Commander shall designate an acting supervisor. The lead supervisor will be a member of the Team Commander's (for this incident) agency.
- At the direction of the Team Commander, Investigative Team Supervisors shall respond and take direct charge of the crime scene investigation. There will always be a designated lead supervisor.

INVESTIGATORS:

Investigation Response Team (I.R.T.)

- Investigators shall be detectives who are currently assigned to the homicide units of the Spokane County Sheriff's Department and the Spokane Police Department, along with the detectives assigned to the criminal investigative unit of the Washington State Patrol's Spokane District. Investigators shall work in two or more person teams to complete specific investigatory tasks at the direction of the Response Team lead supervisor. One person shall be designated as the lead investigator for each team; the lead investigator will not be a member of the Venue/Employee's Agency.

Collision Response Team (C.R.T.)

- In the case of an incident involving a vehicle collision, investigators shall be assigned from the group of appropriate traffic investigative units of the Spokane County Sheriff's Department, Spokane Police Department and Washington State Patrol. Investigators should work in teams as described above based on the scale and scope of the incident. Any collision under this protocol will have at least one investigator who is certified at the Collision Reconstruction level. The lead investigator must be Collision Reconstruction certified and who is not a member of the Venue/Employee's Agency.

ACTIVATION:

- A Chief of Police or the Sheriff or their designee shall make the request for the Investigative Response Team or the Collision Response Team to the Spokane Combined Communication Center.
- Dispatch shall contact the I.R.T. Commander or the C.R.T Commander through the standard call-out instructions.
- Call-out instructions for the Response Teams shall be provided to the Communication Center by the I.R.T. and C.R.T. Commander.
- The I.R.T. or C.R.T. Commander shall assign a Supervisor as the Lead Supervisor. The Lead Supervisor shall be responsible for determining how many investigators will be needed. In cases of officer involved fatalities, the Lead Supervisor shall not be from the employing agency

NOTE: Each department should establish their own guidelines as to when and if they will request assistance from the I.R.T. or C.R.T. While formed primarily to investigate officer involved fatalities, this protocol can be deployed for non-officer involved incidents. Departments are under no obligation to request the assistance of the Investigative Response Team or the Collision Response Team.

AUTHORITY:

Once the Command Group has agreed to investigate an incident as requested by the venue agency representative, the Command Group shall have sole and exclusive authority concerning the investigation of the incident.

VENUE AGENCY RESPONSIBILITIES:

- The venue agency shall be part of the I.R.T./C.R.T. agreement.
- The venue agency shall ensure proper crime scene protection.
- The venue agency shall make the initial request for I.R.T./C.R.T.
-

- The venue agency shall make all department personnel available to I.R.T./ C.R.T.
- The venue agency shall indemnify participating agencies and their employees with an option that the Board of Directors ensures that there is indemnity.
- The venue agency shall be responsible for all reasonable investigative expenditures.
- The venue agency shall make all documents, reports and information available to the Investigative Response Team.
- The venue agency shall allow use of space and equipment as needed by the I.R.T./ C.R.T.

COSTS:

Each participating agency shall be responsible for their employees' wages and associated costs. Any non-routine costs shall be the responsibility of the venue agency.

EVIDENCE:

Evidence Storage:

All evidence shall be stored under the control of the Spokane Police Department's Property Room. The venue agency shall be responsible for storage and handling costs of extraordinary items such as vehicles, HAZMAT, etc.

Evidence Retention:

No evidence shall be released or destroyed without consent or agreement of the other agencies involved in the investigation. Once the criminal prosecution is completed all property owned by private citizens will be released in accordance to State law.

CASE FILES:

- All original reports, statements and other documentation shall be filed and maintained by the investigator's parent agency. Copies of reports, statements and other documentation shall be submitted to the Investigative Response Team Lead Investigator.
- Copies of all case files shall be made available to the venue agency and/or the employing agency.
- Once the criminal prosecution is completed, the case file will be turned over to the assistant lead detective for retention.

RECORDS:

Records shall be maintained of all Team activity, including:

- Personnel history
- Call-out activity
- Team and individual training

HOMICIDE TEAM TRAINING:

Basic Training:

- Criminal Investigation
- Basic Homicide Investigation
- Crime Scene Investigation
- Interviewing and Interrogation Techniques
- Officer Involved Shooting Investigation
- In-Custody Death Investigation

Aforementioned courses maybe waived based upon experience of investigators and/or OJT but should be the basic/core training that each agency provides for their investigator on the team.

Advanced Training:

The following advanced training is recommended for team investigators:

- Advanced Homicide Investigation
- Advanced Reid Techniques of Interviewing and Interrogation
- Blood Spatter
- Crime Scene Laboratory Services
- Crime Scene Preservation
- Crime Scene Photography
- Criminal Investigative Analysis
- DNA
- Sudden Infant Death Syndrome
- Other related training, seminars and conferences or on-going training as offered by the WSCJTA or other training venues on an as available basis.

COLLISION INVESTIGATIVE TEAM TRAINING:

Basic Training:

- Basic Collision Investigation
- Criminal Investigation
- Advanced Collision Investigation
- Interviewing and Interrogation

- Technical Collision Investigation

Advanced Training

- Technical Collision Investigation
- Reconstructive Collision Investigation

In-service Training

- The Investigative Response Team shall strive to maintain a team of highly skilled and trained investigators.
- The I.R.T. shall train together as a team each quarter.

APPOINTMENT/ SELECTION OF TEAM MEMBERS:

APPOINTED MEMBERS

- The Team Command Group shall be a Captain from either the Spokane County Sheriff's Office or the Spokane Police Department who is assigned to the Investigation Division and a Lieutenant from the Washington State Patrol.
- The Team Commander shall be a lieutenant from either the Spokane County Sheriff's Office or the Spokane Police Department, who commands the homicide division for their respective agency. The Team Commander will serve for (2) years. The Team Commander can be removed from this position by a majority vote of the Board of Directors.
- The Assistant Team Commander shall be the lieutenant from either of the above mentioned agency who is not serving as the Team Commander.
- The I.R.T. Supervisors shall be sergeants from the homicide units of the SCSO, SPD and the criminal investigation unit of the WSP.
- The C.R.T. Supervisors shall be sergeants from the traffic units of the SCSO, SPD or WSP.

SELECTED MEMBERS

I.R.T. Investigators shall be the detectives assigned to the homicide units of the Spokane County Sheriff's Office and the Spokane Police Department and the detectives assigned to the criminal investigative unit of the Washington State Patrol's Spokane District.

C.R.T. Investigators shall be the personnel assigned to the traffic/collision investigation units of the Spokane County Sheriff's Office, the Spokane Police Department and the investigators assigned to the appropriate unit of the Washington State Patrol's Spokane District.

REMOVAL FROM TEAM:

Members of the Incident Response Team will be removed when they either transfer or promote out of the homicide unit of the Spokane County Sheriff's Office or the Spokane Police Department, or the criminal investigative unit of the Washington State Patrol. Members of the Collision Response Team will likewise be removed if they transfer or promote out of the Traffic Unit of that agency. Members of the Team can be removed with cause by majority vote of the Board of Directors.

EQUIPMENT:

Investigative Response Team member agencies shall work together to ensure that the I.R.T. has the necessary equipment to support the mission and goals of the Team. Agencies shall supply each Team member with basic safety equipment to adhere to current WISHA or OSHA blood borne pathogens rules.

INCIDENT DEBRIEFING/KEEPING AGENCIES INFORMED:

- An Incident Debriefing for I.R.T. Investigators will be conducted as soon as practical after each activation. The debriefing will be scheduled and conducted by the I.R.T. Commander of that particular activation.
- The I.R.T. Command Group shall ensure the involved agency's Chief Administrator is kept informed of the progress of the investigation. Under no circumstances will information be released that may compromise an I.R.T. investigation.