

# **Basin Critical Incident Team Protocol**

## **Participating Agencies**

Vernal Police Department  
Uintah County Sheriff's Office  
Naples Police Department  
Roosevelt Police Department  
Duchesne County Sheriffs Office  
Daggett County Sheriffs Office  
Utah Highway Patrol  
Vernal Victim Advocates  
Uintah County Attorney's Office  
Duchesne County Attorney's Office  
Daggett County Attorney's Office

## **Forward**

Investigations of Officer Involved Critical Incidents often place extraordinary demands upon the individuals and agencies involved. In addition to the knowledge, skill and resources required to investigate civilian critical incident cases, officer involved critical incidents present unique combinations of complexities.

These cases tend to attract considerable interest from segments of the public and from the news media. The public's right to know what occurred may require balancing with investigative necessity, rights of privacy or rights to a fair trial. Doubts may be expressed by some about the propriety of police agencies conducting investigations of officer involved critical incidents which involve their own officers as actors or victims.

The individual agencies involved in such officer involved critical incidents, as well as those involved in the subsequent investigations, must realize that each incident has potential social, civil, administrative, and criminal consequences. Officer involved critical incident investigators and agency administrators must understand the legal rights, obligations, and authority of the agencies and individuals involved. They must specifically recognize and reconcile police officers' constitutional rights against their rights and obligations resulting from the employer relationship.

Confusion and even conflict can occur among individuals and agencies based upon their different interests, duties, perspectives, authority, training, and resources. Unless resolved in advance, questions such as who conducts the investigation, what type of investigation should be performed, and who can be present when an officer is interviewed can delay and compromise investigations. Because those demands and complications exist, this protocol was developed by the Uintah County, Daggett County, and Duchesne County Law Enforcement Administrators and Directors to serve as the model or guideline for the investigation of officer involved critical incidents in Uintah, Duchesne, and Daggett Counties. The goal of the protocol is to help assure that such cases are thoroughly and fairly investigated.

While this protocol represents the understanding and agreement among member agencies about how such cases are to be investigated, it is anticipated that individual agencies will make minor modifications, not affecting interdepartmental provisions, to meet agency requirements and Utah State Code Annotated.

This protocol, which complies with Utah State Statute 76-2-408, is designed to address criminal liability on the part of the officer or employee.

## 1. Definitions

### A. Officer Involved Critical Incidents

Incidents occurring in Uintah, Duchesne, or Daggett Counties involving two or more people, in which a police employee is involved as an actor, where an “officer involved critical incident” occurs. Such “incidents” include but are not limited to the following:

1. The use of a dangerous weapon by an officer against a person that causes injury to any person;
2. A fatal injury to any person except the officer, resulting from the use of a motor vehicle by an officer;
3. 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
4. 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.

### B. Police Employee

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

1. Full-time, part-time, and hourly sworn officers, whether on duty or off-duty, and whether acting for a law enforcement or a private purpose at the time of the incident:
2. Full-time un-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 an incident;

3. Part-time un-sworn employees whether on-duty or off-duty, and whether acting for a law enforcement or a private purpose at the time of an incident;
4. Reserve police officers who are on-duty or who are acting actually, apparently or purportedly for a law enforcement purpose at the time of an incident;
5. 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. This category includes Informants when they are working under the direct supervision of a police officer.

C. “Actor”

1. A person whose act is a “proximate cause” of an officer involved critical incident involving another person who is actually injured; or
2. A person who intends that his/her act be a “proximate cause” of an officer involved critical incident to another person who is actually injured.

D. “Injured Subject”

The person who is injured as a result of the act of the Actor, whether or not intentionally. When used in this Protocol, this word is used simply to designate the person who is physically injured.

E. “Proximate Cause”

A cause which, in a natural and continuous sequence, produces the injury, without which cause the injury would not have occurred. Reasonable foreseeability of the injury is not a factor relevant to this definition.

F. “Injury”

Injury which is obvious

G. “Venue Agency”

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

H. “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 be the Employer Agency.)

I. “Criminal Investigators”

Those investigators who, under this protocol are assigned to complete the criminal investigation of an officer involved critical incident.

J. “Administrative Investigators”

Those criminal investigators who, under this protocol are assigned to complete the criminal investigation of an officer involved critical incident.

K. “Member Agencies”

The law enforcement agencies in Uintah, Duchesne, and Daggett Counties which are members of the Protocol agreement.

L. “The Team”

The term “The Team” will be used to represent the Basin Critical Investigative Team.

**M. “Team Commanders”**

The term “Team Commanders” will be used to represent the two appointed Team Commanders. These commanders will be appointed by the Chiefs and Sheriffs of the three counties participating as members of the Basin Critical Incident Team.

**N. “Crime Scene Investigative Team”**

The term “Crime Scene Investigative Team” will be used to represent the persons involved in the crime scene investigation. These persons will be those trained and competent in the area of crime scene investigations and the proper handling of evidence. This time may include if available crime scene and evidence personnel from local agencies, members of the B.C.I.T., or other investigators or crime laboratory called in on an as needed and available basis.

**2. Invocation of This Protocol**

Upon the occurrence of an Officer-Involved Critical Incident, this Protocol becomes automatically and immediately effective. When an Officer Involved Critical Incident occurs, the law enforcement agency having jurisdiction where the incident occurred shall, as soon as practical, notify the county attorney having jurisdiction where the incident occurred and the chief executive of the law enforcement agency. The county attorney, and the chief executive having jurisdiction shall jointly designate the necessary investigators from the Basin Critical Incident Team, and designate which agency/investigator is the lead. In the event an uninvolved team cannot be assembled, an outside agency from out of the area will be contacted and requested to conduct the investigation. In the absence of the “Chief”, “Sheriff”, or “Administrative Officer” in the case of a state or federal Venue Agency, the designee or person having administrative authority may consult with the County Attorney.

**3. 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; (1) the

Criminal Investigation; and (2) the Administrative Investigation.

**A. The Criminal Investigation**

1. The Criminal Investigation has investigative priority over the Administrative Investigation and it begins immediately after an incident has occurred.
2. The Criminal Investigation shall be performed by designated members of “The Team”, assigned by the “Team Commanders”. The following agencies shall participate in the investigation:
  - a. The Venue Agency (different from the Employer Agency).
  - b. The non-involved County Attorney’s Office (for advisory purposes only);
  - c. Another member agency investigator selected by the mutual agreement of the non-involved County Attorney’s office and the venue Chief or Sheriff;
  - d. The participating agencies will function under the direction of the appointed Chief Investigator of the non-involved agency;
  - e. The participating agencies will function under the direction of the Chief Investigator of the non-involved member agency. The Chief Investigator has the authority to decide upon appropriate investigative procedures or other issues.
3. The goal of the Chief Investigator is to develop all available relevant information about the incident. This information will be used in two ways:
  - a. First, to determine presence or absence of criminal liability on the part of all those involved in the incident. Specifically:

1. To determined whether the nature and quality of the conduct involved is prohibited by Utah State Statutes which provide for criminal penalties upon conviction; and
  2. If criminal conduct is found, determine the identity of the person(s) responsible for that conduct; and
  3. If criminal conduct is found, determine the degree of the crime(s); the existence of any factual or legal defenses to that crime; and to determine the presence or absence of any factors which would mitigate or aggravate punishment for that crime.
- b. Second, to 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 Investigations' results are of proper interest to the Agency Management for its internal use and those results are fully available for that purpose.
4. The investigation shall follow the rules of law which apply to all criminal proceedings including constitutional, statutory, and case law regarding rights which are covered by the United States Constitution's 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, and 14<sup>th</sup> Amendments together with the protections afforded by the Constitution of the State of Utah.
  5. The investigation shall be performed in a thorough, fair, complete, and professional manner; free of conflicts of interest.
  6. Venue Determination:
    - a. When an incident occurs in part in two or more jurisdictions, each of those jurisdictions is a Venue Agency.
    - b. When an incident occurs on the boundary of two

jurisdictions, or at a location where the relevant boundary is not readily ascertainable or is in dispute, the Venue Agency(cies) shall be:

1. The Employer Agency if the Actor is employed by either boundary agency;
  2. Both boundary agencies if Actors are employed by both;
  3. 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 officer involved incident occur within it's jurisdiction.
- c. For custodial deaths, the agency having custody of the person at the time his/her distress was first discovered is a Venue Agency. Also a Venue Agency is the one within whose jurisdiction any injury was inflicted.
1. If the injury was caused by conduct which was apparently criminal, the Venue Agency is one within whose geographical jurisdiction the act occurred. If it appears that no criminal conduct was involved in the cause of injury, the Venue Agency is the one having custody of the victim when distress is first discovered.
- d. If an on-duty police officer (sworn) 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 the other Team Agencies.
7. When a Venue or Employer Agency lacks sufficient resources, or when it believes it cannot properly investigate an incident for

any other reason, it has two options:

- a. Obtain criminal investigative assistance from other Member Agency(ies). Officer(s) provided by other agencies would then be assigned to the Criminal Investigation Team as members representing the requesting agency.
- b. Relinquish criminal investigative responsibility to another Law Enforcement Agency.

8. Scene Security

Each 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, access control, and the identification and sequestration of witnesses. Responsibility may be changed by mutual agreement as the investigation progresses.

9. Responsibility for physical evidence collection, preservation and analysis shall be as follows:

- a. The Crime Scene Investigative Team has the responsibility for documentation of the scene(s) and for the collection, preservation, and analysis of physical evidence, and/or transmission of collected evidence to the Utah State Crime Laboratory.
- b. If an employee of the Crime Scene Investigative Team is involved in an incident as an Actor or as a Victim, the Crime Scene Investigative Team shall be disqualified from participation in the investigation of the incident. These alternatives are available if;
  1. The Venue or Employer Agency(cies) may be requested by the Crime Scene Team to furnish officers to assist with evidence and scene documentation, collection, and preservation.

Officers so involved will work under the direction of the Crime Scene Team.

2. Prior to final relinquishment of the scene, the Team Investigators and the Crime Scene Investigative Team will provide the Administrative Investigators an opportunity to assess the need for further evidence collection and processing.

## 10. Notifications

Upon identifying an occurrence as an Officer Involved Critical Incident, the Venue Agency(cies) shall make the following notifications as promptly as possible to:

- a. The jurisdiction County Attorney's Office.
- b. Intra-departmental officers, as required by that Agency's procedures.
- c. The Employer Agency, if applicable and not yet aware.
- d. The Investigative Team.
- e. The Medical Examiner's Office, upon confirmation of a fatality. This is a required notification. (Body removal can be delayed as necessary for evidence processing.)

## 11. Scene Procedures

- a. Emergency life saving and medical measures have the first priority.
- b. If a person is transported to a hospital with "injuries", an officer should accompany that injured person in the same vehicle in order to:
  1. Locate, preserve, safeguard, and maintain the chain of physical evidence.

2. Obtain a dying declaration, a spontaneous statement, contemporaneous statement, a statement of then existing or previous mental or physical state, and a physical condition, if at all possible.
  3. Maintain custody of the person if he/she has been arrested.
  4. Provide information to medical personnel about the Incident as relevant to treatment, and obtain information from medical personnel relevant to the investigation.
  5. Identify relevant people, including witnesses, and medical personnel.
  6. Be available for contacts with the victim's family, if appropriate.
- c. The scene(s) must be secured immediately with a perimeter established a sufficient distance away to safeguard evidence. In some circumstances an inner and outer perimeter are appropriate.
1. Access to the scene(s) must be limited to only those officials who must enter for investigative purposes.
  2. A written log will be established as quickly as possible to identify all persons entering the scene(s), the time of their entry and exit, and the reason for entry.
  3. 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.
  4. No items shall be moved inside the scene(s) or

removed from a scene without approval of the Team and the Crime Scene 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 logged. The log 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.

- d. If any type of weapon or instrument was involved in the critical incident, the supervisor at the scene will promptly see to the security and/or collection of such items, as follows:
  1. If the area is secure, loose weapons or instruments shall be left in place and undisturbed.
  2. 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.
  3. If an involved officer still has personal possession of a weapon he/she used in the incident, the supervising officer at the scene shall promptly but discretely (i.e., in private, out of view of the public and other officers if possible) obtain possession of the weapon. Weapons must not be removed from their holsters; obtain the entire holster if necessary to avoid removing the weapon from its holster. Weapons should be replaced by the supervisor as quickly as possible if the officer so wishes, unless reason dictates otherwise.
  4. In the deployment of deadly weapons, the

supervising officer will check the weapons of all officers who were present at the time of the incident to ensure that all discharged weapons are identified and collected, and to specifically document those weapons which were not fired.

5. The supervising officer collecting any weapon or instrument will make note of its readily visible general description and condition, the appearance and the location of any trace evidence adhering to the extent these observations can be made without removing the weapon from its holster or otherwise compromising physical evidence. The location where the weapon or instrument was first observed by the supervising officer, and the identity of the person or location room which the weapon or instrument was received shall also be recorded.
  - a. In firearms cases, the supervising officer will also make note of whether the firearm is cocked, has its safety “on” or “off”, has its hammer back, any apparent jamming of either fired or unfired ammunition; the location and position of the weapons magazine (e.g. fully or partially inserted, completely separate from the firearm, missing, etc.), to the extent possible without removal from its holster.
    1. If the mechanism of a firearm is obviously jammed, no attempt shall be made to unload the weapon or clear the jam.
    2. If the firearm is cocked (or if a semi-automatic pistol cannot be determined to be cocked or not), the safety may be put “on” by the supervising officer, who must make note of that fact. If the

firearm's hammer is back, it may be lowered but note must be made of that fact.

- b. Any officer receiving a weapon or instrument from another person or obtaining it otherwise shall note its serial number if readily visible without removing the weapon from its holster or otherwise compromising physical evidence.
  - c. Otherwise, weapons and instruments will not be disturbed in any way. They shall not be handled by anyone other than the supervising officer and that officer shall handle them minimally to preserve the exact state of the weapon or instrument when received.
6. The collected weapons or instruments shall be transferred to the Crime Scene Investigative Unit upon their arrival, along with information required under Utah State Code and in accordance with proper evidence handling procedures.
  7. If the supervising officer at the scene was himself an Actor or a Victim in the incident, the responsibility for security and/or collection of weapons and instruments shall rest with an un-involved supervisor or the next-in-line un-involved officer at the scene.
  8. Twelve rounds of the same type(s) of ammunition fired will be collected by criminal investigators from each shooting officer (or from the department armorer, if the officer has insufficient similar rounds remaining).
  9. Firearms which do not need to be retained in evidence, as determined by the criminal

investigators, will be returned to the designated representative of the Employer Agency promptly after the Criminalistics Laboratory has inspected and tested them. The Laboratory appreciates that prompt return of the officers' handgun is important, and will return them as soon as possible.

- e. 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. Evidence adhering to live participants (such as blood stains), footprints, fingerprints, volatile substances, various types of trace evidence, and firearms discharge evidence, are examples.
- f. Transporting and Sequestering of Involved Officers:
  - 1. Officers who were present at the scene at the time of the critical 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 police station unless other suitable and agreeable arrangements were 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.
  - 2. If circumstances prohibit removal of all witnessing and involved officers from the scene at once, those officers who were Actors should be relieved first.
  - 3. An uninvolved officer shall remain with the involved officers, either in a group or individually, until they can be interviewed. 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 by investigators. They should not be present during confidential (privileged) conversations. The initial interview will be conducted so as to ascertain the basic information necessary for the investigation to proceed. The follow-up detailed interview will be conducted with the involved officer(s) after at least 2 sleep cycles or 72 hours.

4. Involved officers are not to discuss the case among themselves, with sequestering officers, or with others.
5. While awaiting interviews, involved officers are encouraged to relax and to carefully reflect upon what occurred. They may wish to make notes for their future use, especially for later interviews.

g. Custodial Death Scene:

When a Critical Incident occurs in a jail facility or other location where inmates may have witnessed any relevant part of the incident, these inmates should be identified and separated if possible pending interviews.

12. Selection of Primary Investigators;

Selection of Primary Investigator(s) by the Team Agencies is of great importance. Generally, the most qualified available investigator(s) should receive the assignment. The following qualifications are important.

- a. Experience in homicide investigations. Investigative experience in other crimes against persons is helpful.
- b. Ability to affectively interview people of various backgrounds.
- c. Good working knowledge of physical evidence collection

and preservation techniques, and an appreciation of the abilities and limitations of scientific evidence.

- d. Good knowledge of police operational procedures and the criminal justice system.
- e. Excellent report writing and communications skills.
- f. Good organizational skills.
- g. Respected professionally by those with whom he/she works for, being competent, thorough, objective, fair, and honest.
- h. Good working knowledge of Use of Force issues.

### 13. Interviewing Police Employees

- a. Investigating officers should understand that answers given as part of an Administrative investigation interview may be excludable against a police employee as not complying with the constraints of the Garrity decision if criminal responsibility may be associated with the police employees conduct
  - 1. The police employee must be advised in an interview what his/her statement is being used for, Administrative or Criminal purposes.
  - 2. The Interviewing officer should not be from the employer agency but the employer agency may observe but must remain silent during the interview.
  - 3. The interview must be expressly non-custodial, and the officer should be advised that he or she is free to leave, or Miranda warnings must be given.
  - 4. If and when the interview becomes a custodial

interrogation, the Miranda cases are applicable.

5. To insure proof of voluntariness in a non-custodial interview, the Team interviewers may wish to advise certain interviewees of the following:
  - a. The interviewee is not in custody and is free to leave at any time.
  - b. The interviewee is not obligated to answer any questions asked by the investigators and no punitive action will be taken against the interviewee if he/she refused to be interviewed by the Team.
6. Officers will not be compelled by threats of administrative punitive action (or otherwise) to answer questions of Team interviewers which would be self-incriminating.
7. Interviews will be conducted separately for each officer.
8. Interviews will normally be fully tape recorded.
9. The interviewees will be considered as witnesses unless the circumstances dictate otherwise.
10. Police employees have the same rights and privileges regarding Team interviews that any other citizen would have, including the right to consult with a representative present during the interview.
  - a. The representative should be allowed to consult about the facts of the incident privately with only one police employee at a time.
  - b. If the representative is not a doctor, lawyer,

psychotherapist, or priest, or an agent of such professional, the contents of private conversations between the representative and his/her police employee “client” are not privileged.

14. If a grant of immunity is desired by interviewing officers, the un-involved County Attorney or his representative must be contacted for assistance.

15. Intoxicant Testing

a. Criminal Investigation

Police employees have the same rights and privileges that any civilian would have regarding intoxicant testing. When Team investigators determine that a police employee’s state of sobriety is relevant to the investigation, they have these options:

1. Obtain the blood and/or urine sample by valid consent.
2. Obtain the blood and/or urine sample incidental to valid arrest.
3. Obtain a search warrant.
4. If an arrestee refused 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 Team investigators are available to the Administrative Investigators.
2. In the event the Team does not obtain samples for

intoxicant testing, the Employer Agency may then seek to obtain samples. However, the Team investigators have the first opportunity.

- 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.
3. Blood is the best fluid for alcohol testing, while urine is best for drug screening. Optimally, samples of both should be obtained for the most complete results.
  4. Samples should be collected promptly after the incident for most meaningful results.
  5. A police employee may volunteer to provide sample(s) for intoxicant testing even if the Team and Administrative Investigators haven't obtained samples. Similarly, a person from whom Team or Administrative Investigators 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 Team or the Employer. Such a request will be promptly honored.

## 16. Autopsy

- a. At least one Team member will attend the autopsy, as will a member from the Crime Scene Investigative Unit.

- 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, and means of death shall be attended by at least one member of the Team, and a member of the Crime Scene Investigative Unit.

17. The un-involved County Attorney's Office

- a. The un-involved County Attorney's Office has the following roles in Incident Investigations.
  - 1. The un-involved County Attorney's Office representative will assist and advise the Team on various criminal law issues which may arise, such as Miranda, voluntariness, search and seizure, probable cause to arrest, detentions and releases, elements of crimes, immunity, and legal defenses.
  - 2. Upon completion of the Criminal Investigation, analyze the facts of the Incident as well as the relevant law to determine if criminal laws were broken. If so, prosecute as appropriate.
- b. The un-involved County Attorney's Office has its own separate investigative authority. When deemed appropriate by the un-involved County Attorney or his designated alternate in his absence or conflict, the un-involved County Attorney's Office may perform an independent investigation separate from the Team.

18. Report Writing

- a. All criminal investigators will write reports documenting their participation in the investigation.
- b. The investigators within the Team will allocate and divide among themselves the responsibility for documenting interviews and observations.

- c. The lead Agency has the ultimate responsibility for report writing and for collecting reports from other agencies.
- d. Prompt completion and distribution of reports is essential. All involved agencies and investigators will strive for report completion and distribution within thirty (30) days after the incident.
- e. All reports will be submitted to and reviewed and approved by the Lead Investigator prior to dissemination.

**B. Administrative Investigation**

- 1. In addition to its concern about possible law violations by civilians and its own employees who are involved in an incident (which concerns are addressed by the Criminal Investigation), the Employer Agency also has a need for information about the Incident for the following non-criminal purposes:
  - a. Internal Affairs:  
  
Determination of whether or not its employees violated departmental regulations.
  - b. Agency Involvement:  
  
Determination of the adequacy of its policies, procedures, programs, training, equipment, personnel programs, and supervision.
  - c. Government and Community Relations:  
  
Informing itself of the Incident's details so it may adequately inform its parent governmental body, and so it may be responsive to comments about the incident from the public and the media.
  - d. Claims and Litigation:

Preparing for administrative claims and/or civil litigation that may be initiated by or against the agency.

2. The Employer Agency may use an Administrative Investigation and/or a more specific “civil litigation investigation” format to investigate these concerns as it considers appropriate. While both the Criminal Investigation and the Administrative Investigation are important and should be aggressively pursued, investigative conflicts between the two formats shall be resolved by allowing the Criminal Investigation to have investigative priority. It is intended that this prioritization will preclude competition between the two formats for access to witnesses, physical evidence, and the involved parties, and that it will prevent the Criminal Investigation from being compromised by an untimely exercise of the Employer Agency’s administrative rights.
3. The initiation of Administrative Investigations and the extent of those investigations is, of course, solely the responsibility of the Employer Agency.
4. Interview statements, physical evidence, toxicology test results, and investigative leads which are obtained by Administrative Investigators by ordering police employees to cooperate shall not be revealed to Criminal Investigators without approval of the un-involved County Attorney’s Office. Other results of the Administrative Investigation may or may not be privileged from disclosure to others, including the Team investigators, depending upon applicable law.
5. The Employer Agency should immediately assign at least one Administrative Investigator upon being notified of the Incident. This officer can function as a liaison between the Employer and the Team, can gather information for the Agency, and can be the Team’s contact for personnel matters, even if no actual investigation is then warranted by the Administrative Investigator. (If the Employer Agency has a policy it should be made consistent with this protocol).

6. The Team will promptly and periodically brief the Administrative Investigator(s) of the criminal investigations progress. The Administrative Investigators will have access to briefings, the scene(s), physical evidence. And interviewees' statements.
7. Administrative Investigators are not bound by some of the Investigative restrictions that apply to Criminal Investigators.

#### **4. News Media Relations**

- A. The public's right to know what occurred must be balanced with the requirements of the investigation and with the rights of the involved individuals.
- B. As in all other cases, care must be taken to insure that intentionally misleading, erroneous, or false statements are not made.
- C. Agencies and individuals who are not well informed and not intimately involved with the investigation's results and progress should not make statements to the press.
- D. While an agency cannot be prohibited from making statements to the news media about an incident, these guidelines are established:
  1. The lead Venue Agency has the responsibility for making press releases about the incident and its investigation for the first 48 hours.
    - a. Officers in close contact with the Team are in the best position to comment about the facts of the case and the progress of the investigation.
  2. The Employer Agency.

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 the following areas.

- a. The employer-employee relationship.
- b. Factual material revealed by the Employer Agency's own Administrative Investigation of the Incident.
- c. Information which has been cleared for release by the Team.

3. The Criminalistics Laboratory

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 generally not be released without clearance from an investigator from the Team.

4. The Medical Examiner's Office

Release of information will generally be limited to the following:

- a. Autopsy findings, including the condition of the deceased, the cause of death, and toxicology test results, after the involved agencies have received this information;
- b. The identity of those present at the autopsy, including the identity and affiliation of the pathologists;
- c. The general nature of further medical testing or medical investigation to be done;
- d. Information obtained by Medical Examiner

investigators directly from medical sources, the deceased's family members, or witnesses. Information obtained from the Incident Investigators or from the involved agencies will not be released by the Medical Examiner's Office without prior clearance from those agencies;

- e. The role of the Medical Examiner's Office in the investigation of death, in general terms.
- E. If Team Investigators 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.
- F. Interruptions to the investigators will be minimized if the agencies assign particular individuals to be the sole designated contacts with the news media.

**5. Access to Reports and Evidence**

- A. Material which is created or collected by, or at the request or direction of, Team Criminal Investigators (Including the Crime Scene Unit) will be made available in a timely manner to those agencies which have an interest in the investigation, including Administrative Investigators.
- B. The material will include:
  - 1. Reports, written and collected.
  - 2. Access to physical evidence.
  - 3. Photographs, digital images, diagrams, and video recordings.
  - 4. Audio digital and/or taped recordings.
- C. When the Team and/or un-involved County 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 resume responsibility for preservation of such evidence if it desires.