

Spokane Investigative Regional Response Team



S.I.R.R.



A PROTOCOL TO INVESTIGATE

OFFICER INVOLVED FATAL INCIDENTS

IN THE

SPOKANE REGION

(Revised 01/09/2014)

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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, case law ruling, department rules and/or policies, 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.

GOALS OF THE SPOKANE INVESTIGATIVE REGIONAL RESPONSE (SIRR) TEAM:

To investigate incidents following the Officer Involved Fatal Incident Protocol Manual adopted by the Spokane County Sheriff's Office, the Spokane Police Department, the Washington State Patrol, Stevens County Sheriff's Office, Liberty Lake Police Department, Colville Police Department, Airway Heights Police Department, Cheney Police Department, Eastern Washington University Police, Lincoln County Sheriff's Office, Pullman Police Department, Whitman County Sheriff's Office, and Adams County Sheriff's Office.

- To ensure public trust by conducting professional and consistent multi-jurisdictional investigations of major incidents, primarily officer-involved fatalities.
- To maximize the availability and sharing of the latest technological equipment and techniques.
- To consolidate and share the skills of the most experienced supervisors and investigators.
- To ensure thorough investigations are conducted in a timely manner.

BOARD OF DIRECTORS:

The Board of Directors of the Spokane Investigative Regional 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 Prosecutor's Office and the Medical Examiner's 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 two years between Spokane Police Department, Spokane County Sheriff's Office, and Washington State Patrol. 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 SIRR 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 SIRR Team protocol. Special meetings may be called at any time by the Chairman of the Board. Special meetings may also be requested by the SIRR Team Commander.

SIRR TEAM COMMANDER:

The SIRR Team Commander shall be a sergeant or lieutenant in command of the homicide unit of either the Spokane County Sheriff's Office or the Spokane Police Department, or the Washington State Patrol FOB lieutenant or CID sergeant. The Commander position will rotate every two years between the three 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 readiness and training of the team. The SIRR Team Commander reports to the Board of Directors. Currently, the Spokane Police Department will be in command until 01/01/2015 at which time the Spokane County Sheriff's Office will assume command for the next two year period.

MEMBERSHIP AGENCIES:

- Stevens County Sheriff or his/her designee
- Liberty Lake Police Chief or his/her designee
- Colville Police Chief or his/her designee
- Airway Heights Police Chief or his/her designee
- Cheney Police Chief or his/her designee
- Eastern Washington University Police Chief or his/her designee

- Lincoln County Sheriff or his/her designee
- Pullman Police Chief or his/her designee
- Whitman County Sheriff or his/her designee
- Adams County Sheriff or his/her designee

ACTIVATION:

1. 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 Employer Agency.
 - A Chief of Police or the Sheriff, WSP District Commander, or their designee shall make the request for the SIRR Team to the Spokane Combined Communication Center.
 - Dispatch shall contact the SIRR Team Commander through the standard call-out instructions.
 - The SIRR Team 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
2. Invocation When Not Required
 - Each member agency of this agreement 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.
 - 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.
3. Upon The Request of a Jurisdiction which is not a member of the SIRR Team - 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 Spokane Police Department, Spokane County Sheriff's Office, or the Washington State Patrol.

AUTHORITY: - Once the SIRR Team has agreed to investigate an incident as requested by the Employer agency representative, the SIRR Team shall have sole and exclusive authority concerning the investigation of the incident.

EMPLOYER AGENCY RESPONSIBILITIES:

- The employer agency shall make the initial request for the SIRR Team.
- The employer agency shall provide an Incident Commander.
- The employer agency shall make all department personnel available to the SIRR Team.

- The employer agency shall be responsible for all reasonable investigative expenditures.
- The employer agency shall make all documents, reports and information available to the SIRR Team.
- The employer agency shall allow use of space and equipment as needed by the SIRR Team.

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

EVIDENCE:

- Evidence Storage: All evidence shall be stored under the control of the Spokane Police Department's Property Room. The employer 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 Spokane Police Department Records.
- Copies of all case files shall be made available to the employer.
- The complete investigation will be sent to the prosecutor's office.

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 SIRR Team headed by a lead detective and assistant lead detective appointed from the SIRR Team. The lead detective will not be from the Employer Agency. The incident will be supervised by a sergeant and lieutenant from a non-Employer Agency.

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 County Prosecutor will make a final determination on the presence or absence of criminal liability on the part of those involved in the incident, specifically:

1. To determine presence or absence of criminal liability on the part of those involved in the incident, specifically:
 - To determine whether the nature and the quality of the conduct involved is prohibited by statutes which provide for criminal penalties upon conviction; and
 - If criminal conduct does exist, determine the identity of the person(s) responsible for that conduct; and
 - 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.
2. To incidentally 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.

INVESTIGATOR'S MEETING: After the initial scene has been processed, the lead detective will conduct a briefing with the primary investigators to determine what has been accomplished and what still needs to be accomplished to complete the investigation. Attendees to this meeting will consist of the investigative lieutenants, sergeants, and key detectives involved in the investigation.

COMMAND STAFF BRIEFING: The purpose of this briefing is to advise the agency heads of the status of the incident and to determine what information is appropriate for the media releases. Attendees to this meeting typically will consist of the investigative lieutenants and sergeants, command staff, lead detectives, and PIO.

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.

Detectives will maintain the integrity of the investigation by following the rules of evidence throughout the investigation and consulting with and obtain the permission of the prosecutor prior to releasing any evidence, to include 911 tapes, or witness statements, video, etc.

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

RESPONSE BY SIRR TEAMS: Once a SIRR Team activation has been authorized, the lead supervisor will direct resources to the investigation. The SIRR Team response may be one supervisor and four detectives from the Spokane County Sheriff's Office, one supervisor and four detectives from the Spokane Police Department, and one supervisor and three detectives from the Washington State Patrol. If additional resources are needed, that will be at the discretion and direction of the lead supervisor.

ASSIGNMENT OF LEAD DETECTIVES AND ASSISTANT LEAD DETECTIVES: Assignment of primary investigators is of great importance. Generally, the best available investigators should receive the assignment. The City, County and State will provide sufficient training so that the investigative skills of City, County and State employee SIRR Team members will be sufficient to meet best practices in the investigation of critical incidents.

VEHICLE COLLISION INCIDENTS: Vehicle collision where law enforcement actions are the proximate cause of the fatality shall be investigated by SIRR 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.

SCENE SECURITY: The jurisdiction in which the incident occurred will have the 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.

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 final relinquishment of the scene, the lead detectives, crime scene detectives and SIRR Team supervisors will confer to determine if the collection of evidence is complete.

PUBLIC SAFETY STATEMENT: If first responding supervisors compel a public safety statement, this statement will be delivered to the employer agency investigative supervisor for review and dissemination.

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.

1. 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 SIRR Team. A written report shall be produced by anyone entering the crime scene.
2. 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.

WEAPONS:

1. 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. All discharged weapons will be placed in 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.
2. Firearms which do not need to be retained in evidence, as determined by the SIRR Team in consultation with the Prosecutor's Office, will be returned to a designated representative of the Employer Agency promptly after testing has been completed.

TRANSPORTATION AND SEPARATION OF INVOLVED OFFICERS:

The transporting and separation of involved officers shall be conducted as follows:

1. 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. These officers shall avoid conversation regarding the incident.

INTERVIEWING LAW ENFORCEMENT EMPLOYEES:

1. Generally speaking, it is the intent of the SIRR 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.
2. SIRR 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.
3. SIRR Team does not have the authority to issue "Garrity" orders to involved officers. This can only be done by the involved officer's agency head or designee.

4. The Investigative Supervisor shall be advised prior to a "Garrity" order is given to an involved officer.
5. Investigators shall attempt to interview and audio record any primary witnesses to the incident. It is understood that witnesses may refuse to be audio recorded. Also, it is not practical to record all witnesses. i.e. Witnesses contacted during the canvas, or peripheral witnesses to the investigation.

EMPLOYEE RIGHTS: Law enforcement employees have the same rights and privileges regarding SIRR 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 COUNTY PROSECUTING ATTORNEY'S OFFICE: The County Prosecutor's Office has the following roles in Incident Investigations:

1. 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, 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 charges are appropriate. If so, prosecute as appropriate.
3. The SIRR Team will contact the Spokane County Medical Examiner's Office on any fatal incidents to respond to the scene, take custody of the body, and conduct their investigation.

REPORT WRITING:

1. All individuals participating in the criminal investigation will write reports documenting their participation.
2. The investigators within each investigative team will allocate and divide among themselves the responsibility for documenting interviews and observations.
3. 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.

MEDIA RELATIONS:

1. SIRR TEAM: Once the SIRR Team has initiated an investigation, all SIRR Team media releases related to the investigation shall be made by the Public Information Officer (PIO) or other official designee from the lead investigation agency with the

approval of the SIRR Team Commander for that incident. The SIRR Team will release information typically on the day of the incident, an intermediate news release, and then a conclusionary release when the complete investigation is sent to the prosecutor.

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.

2. THE EMPLOYER AGENCY: The Employer Agency's PIO, or other official designee, will release information in coordination with SIRR Team supervisors.

The Employer Agency may release information regarding the Actor's employment history and related performance as an employee. The Employer Agency is prohibited from releasing information that could affect the integrity of the investigation.

SANCTIONS/REMOVAL OF AGENCY:

Willful violations of the protocol agreement will be brought to the attention of the Board of Directors by the SIRR Team Supervisors. The SIRR Team Board of Directors by majority may elect to immediately stop the investigation and turn the investigation over to the Employer Agency. An agency failing to abide by this agreement may also be removed from the SIRR Team by vote of the Board of Directors.

THE ADMINISTRATIVE INVESTIGATION:

The Administrative Investigation will be subordinate to the Criminal Investigation.

DEFINITIONS:

- **“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
- **“Employer Agency”**

The agency by whom the involved law enforcement employee (actor) is employed or with which he/she is affiliated.

- **“SIRR Team Supervisors”**
SIRR Team Supervisors shall be sergeants and lieutenants 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.
- **“SIRR Team Detectives”**
SIRR Team Detectives 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.
- **“Subject”**
The person who is injured by the act of the Actor, whether or not this injury is intentional.