

Return Name and Address:
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RICHLAND, WA 99352

PLEASE PRINT OR TYPE INFORMATION:

Document Title: SIU INTERLOCAL AND PROTOCOL
Grantor(s)(Last name first, first name, middle initials): 1. CITY OF RICHLAND 2. 3. 4. Additional names on page <u>3-5</u> of document.
Grantee(s)(Last name first, first name, middle initials): 1. CITY OF RICHLAND 2. 3. 4. Additional names on page <u>3-5</u> of document.
Legal description (abbreviated: i.e., lot, block, plat or section, township, range, qtr./qtr.) SIU INTERLOCAL AGREEMENT Additional legal is on page _____ of document.
Reference Number(s) of documents assigned or released: Additional numbers on page _____ of document.
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INTERLOCAL AGREEMENT FOR
SPECIAL INVESTIGATIONS UNIT TO INVESTIGATE
OFFICER INVOLVED INCIDENTS

THIS INTERLOCAL AGREEMENT is effective upon the date executed by all parties and its recording with the Benton County Auditor. In consideration of the mutual covenants below, the parties agree as follows:

1. PARTIES. The parties to this Agreement are Benton and Franklin counties, political subdivisions of the State of Washington, the municipalities of Kennewick, Richland, West Richland, Prosser, Pasco, and Connell, and the Washington State Patrol, an agency of the State of Washington.

2. AUTHORITY. This Agreement is entered into pursuant to Chapter 10.93 (Washington Mutual Aid Peace Officers Powers Act) and Chapter 39.34 (Interlocal Cooperation Act) of the Revised Code of Washington.

3. PURPOSE. The parties hereto desire to establish a Special Investigations Unit consisting of law enforcement officers from the various local law enforcement agencies to help facilitate orderly, thorough and objective investigations of incidents involving law enforcement officers that result in grievous or fatal injury to another person or to an officer resulting from acts of another person.

4. FORMATION. There is hereby created a multi-jurisdictional team to be known as the "SPECIAL INVESTIGATIONS UNIT" ("SIU"), the members of which shall be officers from some or all of the parties hereto and who shall be selected and shall operate in accordance with the Special Investigations Unit Protocol, attached as Exhibit A and incorporated herein by reference ("SIU Protocol").

5. DURATION AND TERMINATION. The term of this Agreement shall be through December 31, 2011. This Agreement shall automatically extend for consecutive one (1) year terms, unless terminated pursuant to the terms of this Agreement.

A party may terminate this Agreement or, alternatively, withdraw its participation in SIU by providing written notice to the chief law enforcement officer for each party of its intent to terminate or withdraw from this Agreement. A notice of

termination or withdrawal shall become effective upon the latter of: a) ninety (90) days after service of the notice on the chief law enforcement officers for all parties; or b) at the conclusion of any SIU investigation that is pending on the date specified by (a) above.

6. GOVERNANCE. SIU shall be governed by the SIU Protocol attached hereto and incorporated by reference. The SIU Protocol may be amended from time to time by written approval of the Voting Member Agencies as defined in the SIU Protocol. Upon such amendment, the amended SIU Protocol will be provided to each Sheriff and Chief and shall supercede any prior versions of that document.

7. ASSIGNMENT OF OFFICERS. The parties agree to cooperate with respect to the assigning of officers to the SIU and that the appointment of SIU officers will be in accordance with the SIU Protocol.

8. REQUEST FOR SIU ASSISTANCE. As stated in the SIU Protocol, departments are under no obligation to request the assistance of SIU. If the assistance of the SIU is requested, the SIU shall be activated and will operate pursuant to the SIU Protocol.

9. ALLOCATION OF LIABILITY/INDEMNIFICATION. Each of the parties agrees that any liability or claim for non-vehicular property damages or non-vehicular caused property damages arising out of the actions or inactions of an officer that has been appointed to the SIU and acting within the course and scope of the officer's duties as a member of the SIU shall be the responsibility of the Venue Agency. Each of the parties agrees that any other liability or claim arising out of the actions or inactions of an officer that has been appointed to the SIU and acting within the course and scope of the officer's duties as a member of the SIU shall be the responsibility of the agency employing the SIU officer(s) whose actions or inactions are in question. These provisions are intended to expressly allocate liability by written agreement as authorized by RCW 10.93.040. These provisions are not intended to require indemnification or payment by any party of that portion of any judgment against any members of the SIU team or party hereto based on intentional wrongful conduct that is outside the scope of employment of any members of the SIU or of that portion of any judgment for punitive damages against a SIU team member or party to this

Agreement. Payment of punitive damages, if any, shall be the sole responsibility of any individual against whom said judgment is rendered unless his or her employer elects to make said payment voluntarily.

In the event that a claim or lawsuit is brought against a party or its employee(s) for actions arising out of their conduct in the operation of the SIU, such party shall promptly notify all other parties in writing that said claim or lawsuit has been filed or commenced.


10. NO PRIOR AGREEMENTS. This Agreement and the exhibit attached hereto contain the entire agreement of the parties with respect to the subject matter of this Agreement. Any oral or written representations or understandings not incorporated in this Agreement are specifically excluded. This Agreement supersedes all prior negotiations, agreements and understandings with respect thereto. This Agreement may only be amended by a written document duly executed by all parties; provided, the SIU Protocol may be amended as provided in paragraph 6 above.

11. INTERLOCAL COOPERATION ACT PROVISIONS. No special budget or funds are anticipated nor created to implement this Agreement. It is not intended that a separate legal entity be established to conduct this cooperative undertaking, nor is the acquiring, holding, or disposing of real or personal property contemplated other than as specifically provided within the terms of this Agreement. The Chief of Police for the City of Richland or his or her designee shall be the Administrator of this Interlocal Agreement.

12. FILING WITH AUDITOR. This Agreement shall be filed with the Benton County Auditor.


13. AUTHORIZED SIGNATORIES. By signing below, the signor certifies that he or she has the authority to sign this Agreement on behalf of the party, and the party agrees to the terms of this Agreement.

BENTON COUNTY



Steve Keane, Sheriff
Date: 2/15/11

FRANKLIN COUNTY



Richard Lathim, Sheriff
Date: 2-9-2011

Andy Miller
Andy Miller, Prosecuting Attorney
Date: 2-15-11

John Hansens
John Hansens, Coroner
Date: 2-15-11

Leo Bowman
Leo Bowman, Chairman of Board
of Commissioners
Date: 2-28-2011

Attest:
Cami McKenzie
By: Cami McKenzie Clerk of the Board

Approved as to form:
Ryan K Brown
Ryan Brown, Chief Deputy Prosecutor

CITY OF KENNEWICK

Ken Hohenberg
Ken Hohenberg, Chief of Police
Date: 02/02/11

Steve Young
Steve Young, Mayor
Date: 02/01/11

Attest:
Valerie L. Ioffler
By: Valerie L. Ioffler, City Clerk

Approved as to form:
Lisa Beaton
Lisa Beaton, City Attorney

CITY OF RICHLAND

Mike Cobb
Mike Cobb, Acting Chief of Police
Date: 2-2-11

Shawn Sant
Shawn Sant, Prosecuting Attorney
Date: 2/11/2011

Dan Blasdel
Dan Blasdel, Coroner
Date: 2/16/11

Robert Koch
Robert Koch, Chairman of Board
of Commissioners
Date: 2-9-2011

Attest:
Mary Withers
By: Mary Withers, Clerk to the Board

Approved as to form:
Shawn Sant
Shawn Sant, Prosecutor

CITY OF PASCO

Denis Austin
Denis Austin, Chief of Police
Date: 2-8-11

Gary Crutchfield
Gary Crutchfield, City Manager
Date: 2-8-11

Attest:
Toni Zucker
By: TONI ZUCKER

Approved as to form:
Leland B. Kerr
Leland B. Kerr, City Attorney

CITY OF CONNELL

Mike Kessler
Mike Kessler, Chief of Police
Date: 3/2/2011

Cynthia D. Johnson
Cynthia D. Johnson, City Manager
Date: _____

John Fox
John Fox, Mayor
Date: 2/11/11

Attest: Marvin Hopkemi
By: 2-1-11

Approved as to form:
Thomas Lampson
Thomas Lampson, City Attorney

CITY OF WEST RICHLAND
Brian McElroy
Brian McElroy, Chief of Police
Date: 2/15/2011

Donna Noski
Donna Noski, Mayor
Date: 2/15/11

Attest:
Margie Rodriguez
By: _____

WASHINGTON STATE PATROL
John R. Batiste
John R. Batiste, Chief of
Washington State Patrol
Date: 2-28-11

Gary Walton
Gary Walton, Mayor - Pro Tem
Date: 3-2-2011

Attest: Janis J. Penner
By: 3-2-2011

Approved as to form:
Dan Hultgren
Dan Hultgren, City Attorney

CITY OF PROSSER
Patrick McCullough
Patrick McCullough, Chief of Police
Date: _____

Paul Warden
Paul Warden, Mayor
Date: 3-1-2011

Attest:
Rachel Shaw
By: Rachel Shaw, City Clerk

EXHIBIT A

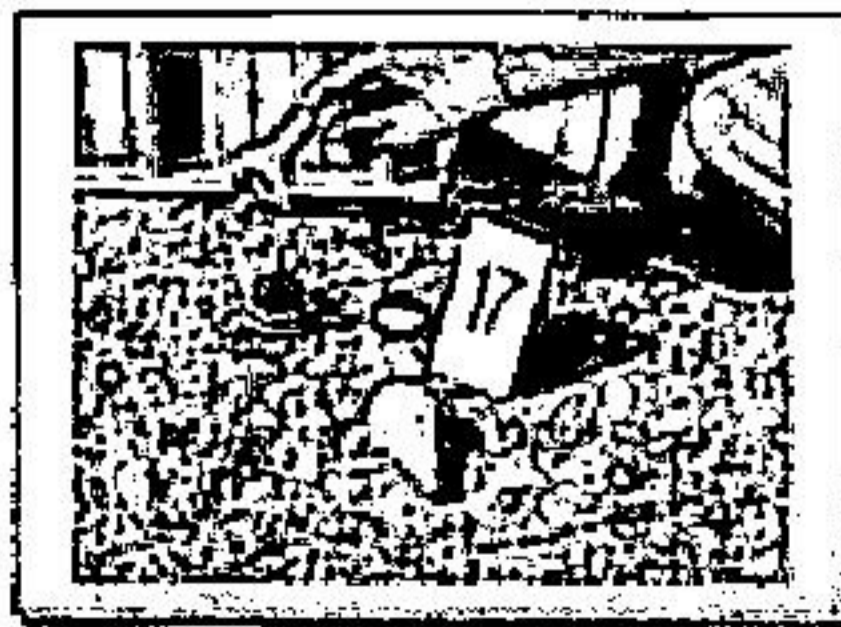
[SUI Protocol]



SPECIAL INVESTIGATIONS UNIT

Protocol

- Member Agencies:**
- | | |
|---------------------------------|----------------------------------|
| Benton County Sheriff's Office | Franklin County Sheriff's Office |
| Kennewick Police Department | Pasco Police Department |
| Richland Police Department | Washington State Patrol |
| West Richland Police Department | Connell Police Department |
| Prosser Police Department | Benton County Prosecutor |
| Franklin County Prosecutor | Benton County Coroner |
| Franklin County Coroner | |



Special Investigations Unit (SIU)
Protocol

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1. MISSION AND PURPOSE OF SIU

The purpose of the Special Investigations Unit (SIU) is to investigate officer-involved incidents that occur within Benton and Franklin Counties which involve great bodily harm or death. The SIU will conduct a criminal investigation to develop relevant information to allow a determination of the presence or absence of criminal liability on the part of those involved in the incident, specifically:

- A. To determine whether the nature and the quality of the involved conduct is prohibited by statutes which provide for criminal penalties upon conviction, and
- B. If criminal conduct does exist, determine the identity of the person(s) responsible, and
- C. 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 could mitigate or aggravate punishment for that crime.

While SIU does not investigate administrative concerns the Employer Agency may have, it is recognized the criminal investigation results are of interest to the Venue and Employer Agencies for their internal use. The results of the SIU criminal investigation will be fully available to the Venue and Employer Agencies for that purpose unless otherwise prohibited by law.

SIU criminal investigations shall follow the rules of law established by the state and federal constitutions, and statutory and case law which apply to criminal investigations. The investigation shall be performed in a manner that provides both the appearance and the reality of a thorough, fair, complete and professional investigation that is free of conflicts of interest.

2. GOALS OF SIU

- A. To perform the criminal investigation of officer-involved incidents likely to result in great bodily harm or death.
- B. To promote public trust by conducting professional and consistent multi-jurisdictional investigations of officer-involved incidents which involve great bodily harm or death.
- C. To maximize the availability and sharing of the latest technological equipment and techniques.
- D. To consolidate and share the skills of the most experienced commanders, supervisors and investigators.
- E. To conduct thorough investigations in a timely fashion.

3. GOVERNANCE

The creation and operation of the Special Investigations Unit (SIU) will be governed by an Inter-Local Agreement signed by the Chief/Sheriff for participating law enforcement agencies, and participating Prosecutors and Coroners. SIU Protocol will identify operational aspects of the Unit.

4. CRIMINAL INVESTIGATION AND ADMINISTRATIVE REVIEW

The Employer Agency shall be responsible for any administrative investigation and/or review of officer-involved incidents. The SIU criminal investigation has investigative priority over the administrative investigation and/or review. Employer Agency personnel conducting an

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administrative investigation and/or review should not be involved in an SIU investigation, nor will they normally be present or engage in SIU interviews with Subject or Witness Officers. An allowable exception may be if the Involved Officer or Witness Officers agree to provide a single voluntary (non-compelled Garrity) statement, and requests that Employer Agency personnel conducting an administrative investigation and/or review be allowed to sit in and participate on the SIU criminal investigation interview.

5. COSTS

Each Member Agency shall be responsible for their employees' wages and associated employee costs of the SIU.

Any necessary equipment or other associated investigative costs that are not covered by the shared resources of the Member Agencies shall be the responsibility of the Venue Agency upon the approval of the Venue Agency Chief/Sheriff. This includes potential costs for a private company to transcribe SIU recorded interviews. The SIU Commander shall consult with the Venue Agency Chief/Sheriff prior to committing to any additional costs.

The SIU will not be responsible for handling claims of damage to private property as a result of the Officer-Involved Incident or subsequent criminal investigation. Responsibility for handling such claims shall fall upon the Venue Agency Chief/Sheriff.

6. DEFINITIONS

A. OFFICER-INVOLVED INCIDENT

Incidents in which the member of a participating agency is an Involved Officer, or the victim of an action, that involves great bodily harm or death. The incident may include but is not necessarily limited to:

- (1) Intentional and accidental shootings, including police tactical incidents involving specialized response units.
- (2) Intentional and accidental use of any other dangerous or deadly weapon.
- (3) Assaults upon law enforcement officers; assaults on other law enforcement employees who are on duty or are acting for a law enforcement purpose.
- (4) Attempts by law enforcement employees to make arrests or to otherwise gain physical control for a law enforcement purpose.
- (5) Any fatal injury or great bodily harm received while in police custody, including custodial trauma or custodial suicide, but excluding fatal injuries of prisoners which occur while the inmate is under a physician's treatment for a disease or other natural condition which has been diagnosed prior to death.
- (6) Vehicular collisions, and specifically:
 - a. Including any vehicle fatality which occurs
 - i. After, although not necessarily as a result of, police gunfire directed at the suspect or the suspect vehicle.
 - ii. In connection with the 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. As a result of a police pursuit.
 - 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.

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- ii. Solo vehicular collisions in which the only injury is suffered by 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.

B. POLICE EMPLOYEE

This protocol applies to employees and to certain other people affiliated with the participating agencies, as follows:

- (1) Full-time, part-time, and hourly sworn and unsworn employees, whether on-duty or off-duty, who are acting actually, apparently, or purportedly for a law enforcement purpose at the time of the incident.
- (2) 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.
- (3) 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.

C. INVOLVED OFFICER

- (1) The police employee who used lethal force, or potentially lethal force, in connection with an incident involving a fatal injury or great bodily harm.
- (2) An officer who operated a motor vehicle while on-duty that was involved in a fatal injury and meets the criteria identified in Section 6A(6), "Definitions."

D. FATAL INJURY

Death or great bodily harm.

E. GREAT BODILY HARM

As defined by RCW 9A.04.110(4)(c), great bodily harm means bodily injury which creates a probability of death, or which causes significant serious permanent disfigurement, or which causes a significant permanent loss or impairment of the function of any bodily part or organ.

F. WITNESS OFFICER

An officer who witnessed the use of force by the Involved Officer, and whose action was not a use of lethal force, or potentially lethal force, in connection with an incident involving a fatal injury or great bodily harm.

G. VENUE AGENCY

The Member Agency or Agencies within whose geographical jurisdiction the officer involved incident occurs.

When an officer-involved incident occurs in part in two or more jurisdictions, each of those jurisdictions is a Venue Agency.

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 should be:

- (1) The Employer Agency if the Involved Officer is employed by either boundary agency, or
- (2) The agency with 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 occur within its jurisdiction.

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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 fatal action was inflicted.

If the death was caused by conduct which was apparently criminal, the lead Venue Agency is the agency 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 victim when distress was first discovered.

If an Involved Officer is 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.

H. VENUE COUNTY

The county in which the incident occurs.

I. EMPLOYER AGENCY

The Member Agency that employs the Involved Officer, or employs an officer who is the victim of a fatal or grievous bodily injury. In many cases the Venue Agency will also be the Employer Agency.

J. MEMBER AGENCIES

Those agencies that have reviewed and agreed to the terms of the Inter-Local Agreement that adopts this Protocol.

- (1) **Voting Member Agency:** A Member Agency that has a representative assigned to SIU. These agencies will be allowed to vote on matters related to SIU (i.e. proposed revisions to the SIU Protocol).
- (2) **Non-Voting Member Agency:** A Member Agency that does not have a representative assigned to SIU. These agencies may be allowed to participate in SIU discussions, but will not be allowed to vote on matters related to SIU.

7. UNIT MEMBERS

A. UNIT COMMANDER

The SIU Commander shall be from a Member Agency with the rank of Captain, appointed by the Chiefs and Sheriffs. The Unit Commander has the overall responsibility to manage and coordinate assigned incidents as well as ensure the readiness and training of the Unit. The Unit Commander will serve as liaison between the Unit and the Chief/Sheriff of the Venue Agency and Employer Agency. The Unit Commander shall determine which SIU Members and other resources will be used to investigate each incident.

B. ASSISTANT UNIT COMMANDER

The Assistant SIU Commander shall be from a Member Agency with the rank of Captain or Lieutenant, appointed by the Chiefs and Sheriffs. The Assistant Commander assumes the Unit Commander's duties and responsibilities in the absence of the Unit Commander. Otherwise the Assistant Unit Commander reports to the Unit Commander and performs tasks assigned by the Unit Commander. The Assistant Unit Commander should not be from the same agency as the Unit Commander.

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C. ADMINISTRATIVE COMMANDER

The Administrative Commander shall be from a Member Agency with the rank of Captain or Lieutenant, appointed by the Chiefs and Sheriffs. The responsibilities of the Administrative Commander include: arranging, coordinating, and documenting all training for the Unit, maintaining records of Unit call-outs, Unit personnel records/roster, Unit equipment inventory, and managing the financial transactions/records of the Unit. The Administrative Commander acts as the SIU Commander in the absence of the SIU Commander and Assistant Commander. Otherwise the Administrative Commander reports to the Unit Commander and performs tasks assigned by the Unit Commander. The Administrative Commander should not be from the same agency as the Unit Commander or Assistant Unit Commander.

D. INVESTIGATIVE UNIT SUPERVISORS

Investigative Unit Supervisors shall be from a Member Agency with a supervisory rank. SIU Supervisors will be appointed by the Chiefs and Sheriffs based upon recommendations from the Unit Commander. Investigative Unit Supervisors shall be assigned by the Unit Commander to respond to and supervise assigned aspects of an officer-involved incident. Unit Supervisors shall report directly to the Unit Commander. If an additional supervisor(s) is needed, the Unit Commander shall designate an acting supervisor from within SIU. Unit Supervisors should not be from the same agency.

E. INVESTIGATORS

Investigators shall be commissioned officers from a Member Agency, preferably with previous experience as a Detective. They shall be appointed by their respective agencies. Investigators should work in two or more person teams to complete specific investigatory tasks at the direction of a SIU supervisor. One person should be designated as the lead investigator for each team.

F. EVIDENCE TECHNICIAN

The Evidence Technician shall be from a Member Agency. The SIU Evidence Technician will help with documenting evidence, collecting evidence, packaging evidence, transporting evidence, data collection and other duties assigned.

G. CORONER REPRESENTATIVE

A coroner representative from each participating county will be assigned to SIU to perform the Coroner's function during the investigation of an SIU incident. The representative from the Venue County Coroner's Office will be activated for incidents involving death to aid in the investigation of that particular incident.

H. PROSECUTOR REPRESENTATIVE

A prosecutor representative from each participating county will be assigned to SIU to serve as a legal consultant. The representative from the Venue County will be activated to provide legal advice in the investigation of that particular incident.

8. UNIT COMPOSITION

SIU should be comprised of the below-listed members. It may not be necessary to have all members activated to respond to an incident. The Unit Commander shall determine which SIU resources are needed for each incident.

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- A. Unit Commander (1)
- B. Assistant Unit Commander (1)
- C. Administrative Commander (1)
- D. Supervisors (3)
- E. Investigators (12)
- F. Evidence Technician (2)
- G. Coroner Representative (2 – one from each participating county)
- H. Prosecutor Representative (2 – one from each participating county)

9. APPOINTMENT/SELECTION OF UNIT MEMBERS

A. APPOINTED MEMBERS

- (1) The Chiefs and Sheriffs shall appoint the SIU Unit Commander, Assistant Unit Commander and Administrative Commander.
- (2) The SIU Supervisors shall be appointed by the Chiefs and Sheriff's based upon recommendations from the Unit Commander.

B. SELECTED MEMBERS

SIU Investigators should be selected through the following process:

- (1) The SIU Commander shall make written notification to the Member Agency's Sheriffs and Police Chiefs soliciting personnel from their respective agencies for assignment to SIU.
- (2) The SIU Administrative Commander shall ensure all applicants meet prerequisites.
- (3) Qualified applicants shall be interviewed by a Review Board approved by the SIU Commander.
- (4) All applicants shall be interviewed using criteria pertinent for the position of a SIU Investigator. The same questions should be asked of each applicant.
- (5) At the conclusion of the Review Board the SIU Commander should consider the recommendations of the Board and submit the recommendations to the Chiefs and Sheriffs for final selection.

C. PREREQUISITES

- (1) The applicant's agency must be a Member Agency of SIU.
- (2) The applicant must have the recommendation from their Chief/Sheriff.
- (3) The agency and applicant must be willing to make a commitment of 3 years service to SIU (excludes promotion/exigent circumstances)
- (4) The agency and applicant should be willing to make a commitment to 8 hours of training each quarter.
- (5) The applicant must be willing to be on call and reasonably available for call-out.
- (6) The applicant shall be a commissioned officer, preferably with previous experience as a Detective.
- (7) The applicant should meet the basic training requirements identified in the SIU Protocol.

D. PERIODIC APPOINTMENT REVIEW

The Chiefs/Sheriffs shall review the appointment of their SIU Members who have served three years for possible rotation or replacement.

10. CONFIDENTIALITY

Information obtained by SIU investigations will generally be confidential while the investigation is pending. SIU Members shall not voluntarily share confidential information with individuals other than SIU Members. The SIU Commander is allowed to share information with the Venue and Employer Agencies' Chief/Sheriff, but no other personnel, to include non-involved Chiefs or Sheriffs.

Once the investigation is complete, the investigation file will be subject to requests under the Public Records Act. Refer to Section 33, "Release of Information/Public Information Officer."

11. REMOVAL FROM UNIT

Members can be removed from SIU by their respective Chief/Sheriff in accordance with the agency's policies or practices.

12. UNIT MEMBERS FROM AN EMPLOYER AGENCY

To maintain proper objectivity, any SIU member from an Employer Agency should not participate in the investigation of that particular incident. An exception may apply to the Washington State Patrol, which includes the Washington State Patrol Crime Labs and Crime Scene Response Team, since they are a statewide agency.

13. TRAINING

SIU members should have received the basic training identified below prior to appointment with SIU. Some courses may be waived based upon the member's experience and/or on-the-job training, as determined by the SIU Commander. The advanced training, taken before and/or during their SIU appointment, is desirable and Member Agencies should make reasonable effort to provide this training.

A. BASIC TRAINING

- (1) Basic Homicide Investigation
- (2) Crime Scene Investigation
- (3) Interviewing and Interrogation
- (4) Crime Scene Photography (which may include Videography)

B. ADVANCED TRAINING

- (1) Advanced Homicide Investigation
- (2) Advanced Interviewing and Interrogation
- (3) Officer-Involved Shooting Investigation
- (4) Blood Spatter
- (5) Crime Scene Laboratory Services
- (6) DNA
- (7) In-Custody Death Investigation (which may include Excited Delirium and Positional Asphyxia)
- (8) Other related training, seminars, and conferences or on-going training as offered by WSCJTC or other training venues on an as available basis.

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C. IN-SERVICE TRAINING

The SIU shall strive to maintain a unit of highly skilled and trained investigators. SIU should train together as a unit at least twice annually. Quarterly training should be allowed based upon need.

14. SIU RECORDS

Records shall be maintained by the SIU Administrative Commander of all Unit activity including:

- A. Selection Process
- B. Personnel History
- C. Call-out activity
- D. Unit and individual training

15. REQUESTING SIU ASSISTANCE

Departments are under no obligation to request the assistance of SIU. The Venue Agency may choose to investigate the incident without SIU assistance. Each department should establish their own guidelines as to when and if they will request assistance from SIU.

The Protocol identified in this document becomes effective upon the activation of SIU.

Member Agencies may request SIU activation upon the occurrence of any sensitive or 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. Such incidents may include:

- A. A fatality which is not covered by this protocol and guideline.
- B. An officer-involved incident where the injuries are not fatal.
- C. Any other sensitive or critical event involving a law enforcement employee where criminal conduct is a possibility to be investigated.

While formed primarily to investigate officer-involved incidents, SIU may be requested for non-officer involved incidents.

16. ACTIVATION

- A. A Chief of Police/Sheriff, or their designee, should make the request for SIU through their respective communications center.
- B. The communications center shall contact the SIU Commander per SIU call-out instructions.
- C. The SIU Commander should call the Venue Agency supervisor at the scene to obtain all available information.
- D. The SIU Commander shall determine what and how many SIU resources are needed. Not all incidents may require activation of the entire SIU.
- E. Call-out instructions for the SIU shall be provided to communication centers by the SIU Commander.

17. AUTHORITY

Once the agreement has been made for SIU to investigate an incident, as requested by the Venue Agency representative, the SIU Commander shall have sole and exclusive authority concerning the criminal investigation of the incident.

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Washington State Patrol policy directs that the WSP will investigate use of lethal force by its personnel, and that the WSP will not attempt to prevent a concurrent investigation by other agencies with jurisdiction. The SIU and WSP should work jointly to criminally investigate the incident if the Involved Officer is a WSP trooper.

18. VENUE AGENCY RESPONSIBILITIES

- A. The Venue Agency shall be a Member Agency in order for the SIU to be activated.
- B. Venue Agency first responders should ensure that emergency life saving measures are taken.
- C. The on-scene Venue Agency supervisor may attempt to obtain critical information pertinent to the safety of officers and citizens. Refer to Section 19, "Obtaining Critical Information."
- D. The Venue Agency should ensure proper crime scene protection. This includes, but is not limited to, immediately securing the crime scene, controlling access into the crime scene, and recording the names of individuals who have entered the crime scene. Written reports are expected from those who enter a designated crime scene.
- E. The Venue Agency should identify, and take reasonable steps to protect, perishable evidence at the scene.
- F. The Venue Agency should attempt to identify witnesses who are present at the scene. Potential witnesses (including Witness Officers) should be sequestered as soon as reasonably possible. Witness Officers should be directed by their Employer Agency supervisor or commander to not discuss details of the case with the Involved Officer or other Witness Officers until SIU has completed their interviews with those officers.
- G. If, prior to the arrival of SIU personnel, a person is transported to a hospital with life-threatening or fatal injuries, the Venue Agency should provide an officer to accompany that person in order to:
 - (1) Locate, preserve, safeguard and maintain the chain of custody for physical evidence.
 - (2) Obtain a dying declaration, spontaneous statement, and/or statement of then-existing, or previous, mental or physical state.
 - (3) Maintain custody of the person if he/she has been arrested.
 - (4) Provide information to medical personnel about the incident that is relevant to treatment, and obtain information from medical personnel relevant to the criminal investigation.
 - (5) Identify relevant people, including witnesses and medical personnel.
- H. If a law enforcement officer has been injured and transported to a hospital, the agency in whose jurisdiction the hospital is located should provide appropriate security and assistance. The Employer Agency should be responsible for providing necessary assistance to the officer's family at the hospital.
- I. The Venue Agency representative should make the initial request for the SIU.
- J. The Venue Agency should provide a Supervisor or Incident Commander who is available at the scene. That person should update SIU personnel upon their arrival at the scene.
- K. The Venue Agency should make department personnel available to the SIU.
- L. For incidents in which a suspect is taken into custody, the Venue Agency will coordinate appropriate security measures with the SIU Commander and bear the costs of security until the suspect is available for booking. It is understood that special circumstances may dictate that another Non-Venue Agency may provide assistance and security upon request of the Venue Agency's Chief/Sheriff.
- M. The Venue Agency should turn over to SIU in a timely manner all evidence that is in their possession.

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- N. The Venue Agency should make all documents, reports, and information on the incident available to the SIU in a timely manner.
- O. The Venue Agency should allow use of space and equipment as needed by the SIU.

19. OBTAINING CRITICAL INFORMATION

The Involved Officer may have information that is pertinent to the safety of officers and citizens, as well as the proper preservation of the crime scene. Such information may include, but not be limited to; medical aid that is needed, information necessary to apprehend suspect(s), and identification of perishable evidence. For purposes of this protocol, the reasons or basis for the use of force by an Involved Officer, or details of that use of force, is not considered critical information.

The Venue Agency on-scene supervisor may, based upon that agency's training, policy or guidelines, attempt to obtain critical information from the Involved Officer that is reasonably necessary to aid injured persons, apprehend suspect(s) and protect perishable evidence

All Member Agency supervisors and commanders should be familiar with *Garrity v. New Jersey* and the consequences to a criminal investigation of directing or ordering an employee to answer questions.

- A. The SIU investigation shall not consider or use any compelled information provided by an Involved Officer who was directed or ordered to provide such information, unless authorized by the Venue Agency prosecutor.
- B. Any supervisor or other agency member who has directed or ordered an employee to answer questions shall immediately report that fact to the first-arriving SIU investigator and the SIU Commander upon his/her arrival at the scene.
 - (1) Details of the compelled information learned from the employee shall not be provided to SIU personnel unless authorized by the Venue Agency prosecutor.
- C. The SIU Commander shall attempt contact with the Involved Officer to inquire if he/she was directed or ordered to answer any questions.
 - (1) Details of the compelled information shall not be obtained.
 - (2) The SIU Commander shall ensure that no compelled information is used as part of the SIU investigation unless authorized by the Venue Agency prosecutor.

20. TURNING OVER CONTROL OF THE CRIME SCENE TO SIU

The Venue Agency Supervisor or Incident Commander shall turn over control of the crime scene to the SIU Commander upon his/her arrival. SIU then becomes responsible for the crime scene and initiation of the criminal investigation. The Venue Agency shall maintain perimeter control of the crime scene if requested by the SIU Commander.

A criminal act or investigation (i.e. robbery, burglary, search or arrest warrant service) may have preceded the Officer-Involved Incident. If so, the SIU Commander shall consult with the Venue Agency Incident Commander to determine which agency should investigate that preceding event, to include pursuing criminal charges related to that event. If so requested, SIU shall assume responsibility for the criminal investigation of the preceding event. Otherwise, SIU will limit its criminal investigation to the Officer-Involved Incident.

21. SIU GUIDELINES

The SIU is comprised of personnel from multiple agencies, whose specific investigative roles may change from case to case. The SIU recognizes it is important to maintain consistency in the quality and type of investigation that is performed. Therefore, the SIU Commander will devise guidelines to be used during SIU investigations. SIU members will follow the guidelines as a part of their investigation.

22. SEIZING AN OFFICER'S WEAPON

If, upon arrival of SIU personnel, an Involved Officer is still in possession of a firearm or other weapon that was used in the incident, the SIU Commander will coordinate obtaining that firearm or weapon with the Employer Agency Supervisor or Incident Commander.

The SIU Commander shall ensure an inspection is conducted of all Witness Officer's (or other officers who may have been present at the time that force was applied) firearms, ammunition or other weapons. These inspections will be coordinated through that officer's Employer Agency Supervisor or Incident Commander.

23. RECOGNIZING POTENTIAL TRAUMA

The duties and responsibilities of a law enforcement officer may place an officer in a position in which he/she may justifiably need to use deadly force, or result in an officer being the victim of a crime.

It is recognized the Involved Officer or Witness Officer may encounter psychological trauma from an incident that is a result of them fulfilling their duties and responsibilities. SIU personnel will be alert for signs that indicate an officer may be suffering from such trauma. SIU personnel will treat involved officers with sensitivity and awareness as to the potential of acute stress reaction and/or other psychological trauma.

24. REMOVING OFFICERS FROM THE SCENE

If, upon arrival of SIU personnel, an Involved Officer or Witness Officer is still present at the scene, the SIU Commander will coordinate with the Venue and Employer Agency Supervisor or Incident Commander the removal of those officers from the scene.

To assure witness credibility these officers should, whether they are removed from the scene prior to or after SIU arrival, be kept separated from each other until statements are obtained by SIU. Witness Officers should be directed by their Employer Agency supervisor or commander to not discuss details of the case with the Involved Officer or other Witness Officers until SIU has completed their interviews with those officers.

25. PEER SUPPORT GROUP COUNSELORS

It is recognized that the Employer Agency may have guidelines in place that allow Peer Support Group Counselors who are not involved in the incident to have access to the Involved or Witness Officers. These discussions are considered privileged communications pursuant to

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RCW 5.60.060. SIU will allow Peer Support Group Counselor involvement per the Employer Agency's policy or guideline.

26. DOCUMENTING THE INVOLVED OFFICER'S CONDITION

SIU Members should photograph and document any injuries the Involved Officer, or any other officer, may have received. The Involved Officer's clothing will also be photographed and documented. The clothing may be seized as evidence.

27. INTERVIEWING LAW ENFORCEMENT EMPLOYEES

It is recognized that officers who justifiably use deadly force as a part of their duties and responsibilities may be subject to civil litigation. It is acknowledged that the SIU criminal investigation interview with Involved Officer(s) and Witness Officer(s) may be used by the Employer Agency in the administrative investigation and/or review of the incident to determine if any policy violations may have occurred. However, Employer Agency personnel conducting an administrative investigation and/or review should not be involved in an SIU investigation, nor will they normally be present or engage in SIU interviews with Involved or Witness Officers. An allowable exception may be if the Involved Officer or Witness Officers agree to provide a single voluntary (non-compelled Garrity) statement, and requests that Employer Agency personnel conducting an administrative investigation and/or review be allowed to sit in and participate on the SIU criminal investigation interview.

SIU recognizes that each agency's collective bargaining agreements (CBA) may establish guidelines for interviewing the Involved Officer and Witness Officers. SIU members will familiarize themselves with the Employer Agency's CBA as it pertains to this topic.

Any interview with the Involved Officer or Witness Officer will be scheduled by the SIU Commander through the Employer Agency's Chief/Sheriff or his/her designee.

With the officer's consent, formal interviews by SIU Members with the Involved Officer and Witness Officer(s) will be tape recorded and transcribed.

A. Interview with the Involved Officer.

- (1) Unless the Involved Officer is a suspect involving possible criminal charges, the interview with the officer should be treated as a witness interview balancing the need to obtain all necessary information with sensitivity for the circumstances of the necessity of the interview. This approach is to be consistent with similar interviews with non-law enforcement officers. An example would be interviewing the parents of a deceased child when there is no probable cause to believe that a parent has committed a crime.
- (2) Research indicates an Involved Officer's memory often will be helped by revisiting the crime scene and doing a walk through after evidence and evidence markers have been removed, and before the officer has been interviewed. It is recognized this process can be instrumental in separating a true picture of the event from perceptually distorted recollections, and that the officer may recognize things in the scene that will stimulate recall. Consequently, if requested by the Involved Officer, SIU will generally allow the officer, with only his/her legal counsel, to do a walk-through of the scene prior to a formal interview. The legal right to do a walk-through after investigators have left the scene (i.e.

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public property crime scene versus private property crime scene) will need to be considered. The same approach is often used in homicide cases involving witnesses or suspects who are not law enforcement officers.

- (3) It is recognized the interview may take place one to several days after the incident occurred.
- (4) The Involved Officer should be allowed to provide a written statement prior to the interview if they so desire.
- (5) The Involved Officer will be treated with sensitivity and awareness as to the potential of acute stress reaction and/or other psychological trauma.
- (6) The Involved Officer has the same constitutional rights as any other citizen. The officer has the right to have legal counsel present during the interview. The officer should be provided a reasonable time to consult with legal counsel prior to the formal interview.
- (7) If the Involved Officer requests a Guild Representative (other than an attorney) be present during the interview, the SIU Interviewer(s) will notify the SIU Commander. The Commander will then consult with the Venue County's prosecutor and the Employer Agency Chief/Sheriff. A decision will then be made as to whether a Guild representative can be present during the interview. If a Guild Representative is allowed to sit in on the interview, the Representative will not be allowed to interfere with or obstruct the interview process.
- (8) The Involved Officer will be advised of the Miranda rights prior to an interview, and afforded immediate opportunity to obtain legal counsel. Prior to being interviewed, the Involved Officer will be advised
 - a. That they are being questioned related to a criminal investigation, and
 - b. That they are free to leave.
- (9) SIU Members will obtain statements from the Involved Officer only if it is "free and voluntary." If an Involved Officer indicates he/she will not provide a statement unless compelled to do so, the interview will be stopped. SIU Interviewer(s) shall notify the SIU Commander, who will notify the Venue County prosecutor's office and the Employer Agency Chief/Sheriff.

B. Interview with a Witness Officer.

- (1) Interviews with Witness Officer(s) will likely need to be arranged on the same day that the incident occurred. Witness Officers will be interviewed separately.
- (2) Unit Members should be alert for signs the Witness Officer(s) are traumatized and may need some time to decompress prior to giving a statement.
- (3) Generally, an officer who is a witness to the use of force and is not involved in the application of force in any manner and not a subject of the investigation, does not have a right to union representation during his/her interview. That is unless the Witness Officer reasonably believes his/her statement may result in discipline. Under such circumstances, if the officer requests Guild representation, he/she may be allowed to

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have a Guild Representative present during the interview. The Representative will not be allowed to interfere with or obstruct the interview process.

- (4) Witness Officer(s) may, if appropriate, be asked to participate in a walk-through of the scene with SIU investigators.

28. INTOXICANT TESTING

Law enforcement employees have the same rights and privileges that any civilian would have regarding intoxicant testing. If SIU Members determine a law enforcement employee's state of sobriety is relevant to the criminal investigation, they may:

- A. Obtain the blood and/or urine sample by valid consent.
- B. Apply for a search warrant to obtain the samples.
- C. When applicable, utilize the provisions of the Motor Vehicle Code of state statutes for vehicle driving incidents.

29. RELIEVING INVOLVED OFFICERS OF DUTY

SIU will not be involved in relieving any Involved Officer or Witness Officer of their duties. Any such action will be the responsibility of the Employer Agency.

30. PLANNED POLICE ACTION

If the Officer-Involved Incident is a result of a planned police action (i.e. search warrant service, arrest warrant service, tactical operation), documents and materials associated with the planning and execution of that action shall be turned over to SIU. Personnel involved in the action shall be interviewed by SIU. Those personnel should not debrief the incident amongst themselves until the last SIU interview is conducted with those involved.

31. AUTOPSY

Autopsies will be coordinated with the SIU Coroner Representative and will be conducted through the Venue County Coroner's office. A SIU Member will be present during autopsy and take all appropriate investigative steps.

32. KEEPING THE VENUE/EMPLOYER AGENCY INFORMED

The SIU Commander should ensure the Venue Agency and Employer Agency's Chief/Sheriff is kept informed of the progress of the criminal investigation.

33. RELEASE OF INFORMATION / PUBLIC INFORMATION OFFICER

The SIU Commander, the Venue Agency and Employer Agency Chief/Sheriff should identify a single Public Information Officer for release of information to the public. Release of detailed information pertaining to the criminal investigation requires notification to the SIU Commander. Under no circumstances should information be released that may compromise a SIU investigation, unless required by law.

Requests for Release of Public Records of SIU investigative reports preferably would be made through the Venue Agency. However, individual agencies represented on the Unit will be

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required to follow applicable statutes for reports of their Unit members should a request for public records be filed with that agency. Release of any reports or records will follow the policy or guideline of the respective agencies. The SIU Commander will be notified by the Venue Agency, Employer Agency or any Unit Members that receive a records request related to the incident while the investigation is pending.

34. RELEASE OF THE CRIME SCENE

Only the SIU Commander, in consultation with and approval from the Venue Agency Prosecutor, may authorize release of the crime scene upon completion of the criminal investigation. The SIU Commander shall notify the Employer and Venue Agency Chief/Sheriff of the intent to release the scene prior to it actually being released.

35. REFERRAL TO THE COUNTY PROSECUTOR

In coordination with the SIU Prosecutor Representative, the SIU Commander will present the SIU investigative file to the Venue County Prosecutor for consideration of a Coroner's Inquest, referral to the Department of Justice, and review of filing on any potential criminal charges.

The Prosecutor shall also be available for consultation on search warrants, special inquiry proceedings, special inquiry subpoenas, and issues regarding statements by law enforcement officers when Garrity or other issues are raised.

36. EVIDENCE STORAGE

All evidence should be stored under the control of, and at the evidence storage facility of, a Non-Employer Member Agency designated by the SIU Commander. The SIU Commander shall coordinate with that Member Agency's Chief/Sheriff. The SIU Evidence Technician shall work with that Member Agency's Evidence Technician on details of inventorying and storage of evidence items.

The Venue Agency shall be responsible for storage and handling costs of extraordinary items such as vehicles, HAZMAT, etc.

37. CASE FILES

All original reports, statements, and other documentation of Venue Agency employees should be filed and maintained by the Venue Agency. Copies of those reports, statements, and other documentation shall be submitted to the SIU Commander in a timely manner.

SIU will file reports under the assigned Venue Agency case number. The Venue Agency face sheet and original report will be completed by a Venue Agency officer, other than the Involved Officer. It is recognized the original report may be brief, and will be supplemented by detailed SIU reports.

Justifiable homicides often occur in conjunction with other criminal offenses. The National Incident Based Reporting System (NIBRS) data collection guidelines identify the justifiable homicide must be reported as a separate incident from the other criminal offense. For the justifiable homicide case, NIBRS requires that the Involved Officer be listed as a "suspect," and

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the perpetrator who is killed be listed as a "victim." Other officers or civilians should be listed as "witness" or "involved other."

SIU members shall file their reports on a standard supplemental report template, different than the I-Leads electronic report system. Those reports shall be printed and submitted to the SIU Commander upon completion. The SIU Commander will establish a master page number for each page of the report. The SIU Commander shall be responsible for ensuring all people listed on SIU reports are entered into the I-Leads database, and the completed report is scanned in and electronically attached to the Venue Agency report. Reading access capabilities to the electronic version of the report will be restricted and locked until the criminal investigation and administrative review is completed. It shall be unrestricted only with authorization from the Venue Agency Chief/Sheriff. The procedure in Section 33, "Release of Information," will be followed for requests for release of public records.

SIU reports will be completed in a timely manner. The SIU Commander and Venue Agency Chief/Sheriff will coordinate where the original SIU investigative file will be stored. Upon completion of the investigation and after the case has been referred to the Venue County prosecutor's office, copies of the SIU investigative file should be made available to the Venue/Employer Agency Chief/Sheriff with the approval of the Venue County Prosecutor.

38. INCIDENT DEBRIEFING

An incident debriefing for SIU members will be conducted as soon as practical after each activation. The debriefing will be scheduled and conducted by the SIU Commander.

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39. ORGANIZATIONAL CHART

