



21st JUDICIAL DISTRICT CRITICAL INCIDENT RESPONSE TEAM PROTOCOL

It is the consensus of law enforcement agencies in the 21st Judicial District that a Critical Incident Response Team (CIRT) should be formed. This Team shall be made up of highly trained and skilled investigators from various law enforcement agencies within the 21st Judicial District. The Team shall be formed to investigate incidents in which any law enforcement officer within the district uses deadly physical force under the color of official law enforcement duties. The team can also be utilized, however, for any special investigation or criminal incident requiring unusual investigative resources. The CIRT shall ensure that a neutral, impartial and thorough criminal investigation of these incidents is conducted.

The following protocol should be considered a guideline. Where investigative techniques are described, they are intended to be used as an aid and to add consistency to an investigation. It is not the intent that this protocol mandates any action that would be contrary to any policy or procedure of any member agency, or any applicable local or state law.

I. Definitions

"Actor"

A person whose act is a "proximate cause" of a fatal injury or injury which poses a substantial risk of death to another person or a person who intends that his/her act be the "proximate cause" of serious bodily injury or death to another person and this act does cause death or serious bodily injury to another.

"Administrative Investigators"

Investigators assigned by the Employer Agency to conduct the administrative investigation of the incident, sometimes also referred to as internal affairs investigators.

"Case Agent"

The lead investigator from any Member Agency other than the Employer Agency responsible for directing, managing, coordinating, and assigning investigative duties.

"CIRT Coordinator"

An investigator employed by a Member Agency who is charged with coordinating the efforts of CIRT.

"CIRT Investigators"

Investigators assigned by the agencies who are members of this agreement.

"CIRT Liaison"

A member of the Employer Agency assigned to observe all stages of the CIRT Investigation, but who does not participate in the investigatory process.

"Deadly Physical Force"

A level of force used which involves a probable consequence or likelihood to cause death.

"Employer Agency"

The agency employing and/or affiliated with the involved police employee(s) or with which he/she is affiliated.

"Fatal Injury"

An injury from which death occurs.

"Investigative Agency"

A law enforcement agency within whose geographical jurisdiction the incident occurs and who has jurisdiction to investigate the incident.

"Member Agencies"

The law enforcement agencies which are signatory to this CIRT agreement.

"Officer-Involved Fatal/Near Fatal incidents"

An event occurring involving two or more persons in which a police agency employee is involved as an actor, victim or custodial officer, where a fatal injury or an injury where a substantial risk of death occurs. Such incidents include but are not limited to the following:

- 1) Intentional and/or accidental shootings, including police tactical incidents involving specialized response teams.
- 2) Intentional and/or accidental use of any other dangerous or deadly weapon.
- 3) Assaults resulting in death or a substantial risk of death upon police officers and assaults on other police employees who are on duty or are acting for a law enforcement purpose.
- 4) Any fatal injury occurring in police custody.
- 5) Any fatal injury to a person who is a passenger of a police officer (such as a ride-a-long, emergency transports, etc.).
- 6) Vehicular collisions, which may include but are not limited to:
 - Any fatality or near fatality which occurs after, although not necessarily as a proximate cause of, police gunfire directed at the suspect or the suspect vehicle.
 - Police pursuits where the suspect vehicle, which is being pursued by a police vehicle(s), collides with another vehicle, a pedestrian, or an object, and causes death or substantial risk

of death.

- Police pursuits where the police vehicle collides with another vehicle, a pedestrian, or an object, and causes death or a substantial risk of death.
- Vehicle accidents (non-pursuits) involving police vehicles where death occurs or substantial risk of death occurs.

"Police Employee"

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

- 1) Full-time and part-time employees, whether on-duty or off-duty, engaged in a Police function become involved in a crime in progress and acting for a law enforcement agency at the time of the incident.
- 2) Temporary employees and volunteers whether paid or unpaid, who are on-duty or who are acting for a law enforcement purpose at the time of the incident. This category includes informants when they are working under the direct control and supervision of a police officer.

"Proximate Cause"

An act from which an injury results as a natural and direct consequence and without which the injury would not have occurred.

"Serious Bodily Injury"

An injury that poses substantial risk of death, serious permanent disfigurement, or protracted loss or impairment of the function of any part or organ of the body. This may include or breaks, fractures, or burns of the second or third degree.

"Subject"

The person(s) who is/are injured by the act of the actor, whether or not it is intentional. When used in this policy, this word does not imply existence of criminality but rather is used to designate the person(s) who is/are physically injured.

II. Critical Incident Response Team Protocol

The Critical Incident Response Team (CIRT) concept has been implemented in the 21st Judicial District to aid and assist agencies investigating peace officer involved fatal or near fatal incidents. Peace officers are unique because society has granted peace officers the power and authority to use deadly force. Stringent laws and guidelines related to the use of deadly force ensure that peace officers do not abuse the power that has been granted to them by our free society.

This unique power presents challenges to agencies that are tasked with investigating use of deadly force incidents. It is the intention of the Critical Incident Response Team (CIRT) to make these investigations less traumatic for the involved peace officer(s), their agency, and the community they serve. It is not the intent of the members of this protocol to mandate any action that would be contrary to any policy or procedure of any member agency. The pooling of investigative resources can reduce the time that it takes to complete these investigations and reach closure for the peace officer, the agency, the community, as well as other involved parties, without sacrificing investigative integrity. The Critical Incident Response Team shall be staffed with experienced and highly trained investigators supported by their respective agencies.

When activated, the Critical Incident Response Team shall respond, investigate, and present the facts in the most expeditious manner possible.

III. Procedures

The CIRT is available to all participating law enforcement agencies within the 21st Judicial District to assist the Employer Agency with any applicable investigation.

The chief executive of the Employer Agency shall make a request for activation of CIRT to the chief executive of the Investigative Agency. The CIRT shall then only be activated upon the direction of the Investigative Agency's chief executive or their designee.

Upon activation, the CIRT operates under the authority of the Investigative Agency and as such shall report to the chief executive of the Investigative Agency. This shall require the CIRT Coordinator to keep the Investigative Agency CEO apprised of investigations plans and strategies, findings, reports and other critical information in a timely manner.

The CIRT shall investigate and present fact-finding reports to the Employer Agency, the Investigative Agency and, where appropriate, the District Attorney's Office. This shall be the sole responsibility of the CIRT unless otherwise directed by the Investigative Agency's chief executive or their designee.

All existing procedures regarding notification of the District Attorney's Office following a peace officer's use of deadly physical force shall apply and be followed precisely as well as the notification of the coroner's office, if applicable.

The CIRT Coordinator is responsible for coordinating, at a minimum, one full team meeting a year to review protocol, review incidents, and to discuss training needs.

IV. Personnel

The CIRT shall consist of peace officers and ancillary personnel designated by the chief executive of each Member Agency within the 21st Judicial District. Each member shall serve at the discretion of the appointing or current chief executive. A Member Agency's chief executive may remove their member at any time.

The use of non-CIRT investigators to supplement official CIRT members can be authorized by the CIRT coordinator on an as-needed basis, given the approval of the Investigative Agency's chief executive.

V. Notification

Requests for the CIRT's assistance shall be made as soon as possible by the chief executive of the Employer Agency to the chief executive of the Investigative Agency.

Upon activation, the CIRT Commander shall decide what personnel and equipment shall be needed for the investigation and contact the necessary members of the CIRT with response instructions.

The Investigative Agency's CIRT Coordinator shall assess the details of the incident and shall select and assign a Case Agent.

VI. Equipment/Personnel/Associated Investigative Costs

All necessary equipment shall be supplied by the Investigative Agency. If additional or specialized equipment is needed, the cost of obtaining such equipment shall be borne by the Investigative Agency upon approval of the Investigating Agency's chief executive. This does not prohibit any individual team member from bringing any piece of equipment he/she deems necessary, providing the Investigative Agency deems such equipment appropriate.

The decision to initiate any specialized testing shall be made in collaboration with the Employer Agency. The Employer Agency shall be responsible for any costs pertaining to these tests.

All associated personnel costs shall be the responsibility of the agency providing the CIRT Investigators to the team; those costs shall not be the responsibility of the Employer Agency. Any other personnel costs shall be approved by the Employer Agency prior to being incurred.

All CIRT Investigators, while responding to a call out, regardless of jurisdiction, shall be deemed to be on duty and responding to a call of mutual aid.

VII. Investigative Responsibilities

To properly recognize and accommodate the various interests and rules of law or agency policy which may be involved in any incident, investigations of these matters shall be performed under two separate investigative formats - the Administrative Investigation and the Criminal Investigation.

The Administrative Investigation

The administrative investigation is to be conducted by the Employer Agency and is subordinate to the Criminal Investigation in all aspects. The scope of the Criminal Investigative process is generally broad enough to cover most information needed in the Administrative Investigation and is deliberately structured to recognize and accommodate the interests of the Administrative Investigation.

Criminal investigators shall share information with Administrative Investigation personnel. Absent the limited purposes allowed by law, Criminal Investigators shall ensure they do not receive any information by any means that is the result of the Administrative Investigation.

The Criminal Investigation

The Criminal Investigation has investigative priority over the Administrative Investigation and it begins immediately after an incident has occurred.

This investigation is performed by the CIRT which is made up of CIRT Investigators from the Member Agencies. The CIRT Coordinator shall designate a Case Agent from an agency other than the Employer Agency. The Employer Agency shall designate a singular CIRT Liaison, who may observe all components of the CIRT Investigation.

Employer Agency members may not participate in any component of the CIRT Investigation which may have influence over evidentiary issues or matters directly tied to the primary investigative functions of the CIRT itself unless approved by the chief executives of both the Employer Agency and the Investigative Agency.

Scene Security

Member Agencies have initial responsibility for immediately securing crime scene(s) within their respective jurisdictions. This responsibility includes preservation of the integrity of the scene(s) and contents, access control, and the identification and sequestration of witnesses, along with stabilizing any life-threatening injuries or other situations. Responsibility may be changed as the investigation progresses, given appropriate and available staffing.

Crime/Incident Scene

The scene or scenes associated with the CIRT incident shall be processed by forensic laboratory personnel from an agency other than the Employer Agency. In rare circumstances, both the chief executives of the Employer Agency and Investigative Agency shall agree on any deviation of this practice.

Any evidence collected from the crime scene shall be stored, managed and maintained by the Investigative Agency. This evidence shall be managed according to the policies and practices of the Investigative Agency.

Prior to final relinquishment of the scene, the CIRT investigator shall provide the Administrative Investigator of the Employer Agency an opportunity to assess the scene.

Scene Procedures:

The scene(s) shall be secured immediately with a perimeter established a sufficient distance away to safeguard evidence. In some circumstances an inner and outer perimeter is appropriate. It is highly recommended that crime scene tape or other barriers be used to define the perimeters.

Access to the scene(s) shall be limited to only those officials who shall enter for an investigative purpose.

A written log shall 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.

Nothing inside the scene(s) shall be moved or removed without approval of the CIRT Coordinator unless absolutely necessary for public or officer safety or for preservation of evidence. If removal without approval is necessary, the removal shall 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.

If the area is secure, loose weapons or instruments shall be left in place and undisturbed.

Body removal shall only occur after approval by the CIRT Coordinator.

VIII. Interviewing Police Employees

Research has shown that these types of incidents can be extremely stressful for police employees and can result in inaccurate information being obtained during the interview of the involved officer if this interview is conducted too soon after the event has occurred. The CIRT Coordinator shall work with all parties involved to determine when shall be the best time to interview the involved officer(s) with the understanding this may not occur for one or more days after the incident, depending on circumstances. It shall be the CIRT Coordinator's responsibility to monitor and ensure the CIRT is utilizing the industry's best practices as learned through training and research.

It is the intent of the CIRT to only conduct criminal investigations. Garrity advisements do not apply to criminal investigations, and thus are not a responsibility of CIRT.

Ideally, all interviews should be audio and video recorded but at a minimum shall be audio recorded.

The Administrative Investigator shall have the option of witnessing any officer interview and shall be provided with copies of all interview recordings. At the conclusion of the criminal interview, the Administrative Investigator may conduct their interview.

During a CIRT interview, if the officer under investigation invokes Miranda or otherwise declines an interview, the interview shall conclude and the Administrative Investigator can proceed under advisement of Garrity. No statements obtained during the course of the interview under Garrity, nor any evidence derivatively obtained because of the interview under Garrity shall be provided to the criminal investigators.

The CIRT has no responsibility to contact legal representation or mental health providers. That is the responsibility of the officer or the Employer Agency.

The CIRT has no responsibility to assign or coordinate peer support for the Employer Agency. A peer support officer, if assigned by the Employer Agency, shall be present to provide emotional support but shall not participate in or permit the discussion of the incident or allow for contamination of any evidence.

Any video evidence that may be procured during the course of the CIRT investigation, including from a body-worn camera by any law enforcement officer involved, shall not be viewed by any officer under investigation prior to conducting an interview with that officer. While the officer's attorney may view any video evidence, any such viewing shall expressly be conditioned upon the agreement that he or she may not advise the officer of the content of that video, unless it is only to advise that the officer should not make any statement at that time.

IX. The District Attorney's Office

Attorneys from the District Attorney's Office have the following roles in CIRT investigations:

Assist and advise the CIRT on various criminal law issues that may arise, such as Miranda, voluntariness, search and seizure, probable cause to arrest, detentions and releases, elements of crimes, immunity, legal defenses.

Upon completion of the criminal investigation, the District Attorney's Office shall review the case under the following circumstances:

- If required by statute
- If death or serious bodily injury is the result
- If probable cause exists that potential criminal activity has occurred

Notify the CIRT Coordinator, Case Agent, and chief executives of the Investigative and Employer Agencies on whether charges shall be filed via written document.

The CIRT Coordinator is responsible to ensure that the District Attorney's Office is immediately notified of the activation of a CIRT.

X. Report Writing/Review

All CIRT Investigators shall write reports documenting their participation in the investigation. The Case Agent responsible for reviewing all reports for content, accuracy and completeness. The completed CIRT Investigation shall be reviewed by the CIRT coordinator and the Investigating Agency chief executive prior to submission to the District Attorney for review, if a review is deemed necessary.

XI. Public Information

The Investigating Agency shall be responsible for all public information releases regarding the CIRT Investigation.

At a time deemed appropriate, the Employer Agency may release the name(s) of the officers involved in the incident in the interest of transparency.

To maintain the integrity of the investigation, all public information releases shall be reviewed with the CIRT Coordinator, Case Agent, District Attorney's Office, and the chief executives of both the Employer and Investigative Agencies.

XII. Access to Reports and Evidence

The Administrative investigator(s) of the Employer Agency shall have access to all reports, notes, and evidence collected during the CIRT investigation.

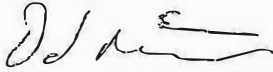
When the District Attorney's Office concludes that the physical evidence collected through the investigation is no longer needed for criminal prosecution, the Investigative Agency shall be notified of that decision so the preservation or disposition of the evidence can comply with the Investigative Agency's policy.

The case should be locked in the records management system to limit access to CIRT personnel only until the case receives a disposition from the District Attorney. Upon final disposition from the District Attorney's Office, the case shall be unlocked.

XIII. Debriefing

At the discretion of the CIRT Coordinator, or any Member Agency chief executive, a CIRT debrief shall be conducted to evaluate the CIRT Process.

THE CRITICAL INCIDENT RESPONSE TEAM FOR THE 21ST JUDICIAL DISTRICT IS HEREBY
AGREED TO BEGINNING February 3, 2020 BY THE FOLLOWING:



Daniel P. Rubinstein, District Attorney
21st Judicial District

2/3/2020
Date



Matt Lewis, Mesa County Sheriff

02-03-20
Date



Doug Shoemaker, Grand Junction Police Chief

2-3-20
Date



David Krouse, Fruita Police Chief

02-03-2020
Date



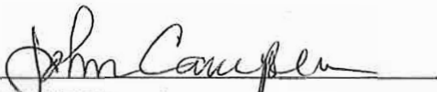
Debra Funston, Palisade Police Chief

2/3/2020
Date



David Rollins, Major
Colorado State Patrol - District 4

04/03/2020
Date



John Camper, Director
Colorado Bureau of Investigation

2-11-20
Date



Dean Williams, Executive Director
Colorado Department of Corrections

2-21-2020
Date