

# 21st JUDICIAL DISTRICT CRITICAL INCIDENT RESPONSE TEAM PROTOCOL

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## FORWARD

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 will be made up of highly trained and skilled investigators from various law enforcement agencies within the 21st Judicial District. The team will be formed in order 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 will 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, to add consistency to an investigation. 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.

## Critical Incident Response Team Protocol

The Critical Incident Response Team 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 insure 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 concept to make these investigations less traumatic for the involved peace officer, 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 resources hopefully will lessen 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. The Critical Incident Response Team will be staffed with experienced and highly trained investigators supported by experienced supervisors.

When activated, the Critical Incident Response Team will respond, investigate, and present the facts in the most expeditious manner possible. It is trusted that this unit will be viewed by both member agencies and the public as highly professional, unbiased, fact finding team, working together to resolve difficult situations.



## **PROCEDURES**

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

The CEO (Chief Executive Officer) of the employer agency will make a request for activation of CIRT to the CEO of the venue agency. The CIRT will only be activated upon the direction of the CEO, or the CEO's designee, having the investigative jurisdiction (venue agency) over the incident.

Upon activation the CIRT operates under the authority of the Venue Agency and as such will report to the CEO of the Venue Agency. This will require the CIRT Coordinator to keep the Venue Agency CEO apprised of investigations plans and strategies, findings, reports and other critical information.

The CIRT will investigate and present fact-finding reports to the Employer Agency, the Venue Agency and the District Attorney's Office. This will be the sole responsibility of the CIRT unless otherwise directed by the Venue Agency CEO or the CEO's designee.

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

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.

## **PERSONNEL**

The CIRT shall consist of peace officers and ancillary personnel designated by the CEO of each participating agency within the 21st Judicial District.

A CIRT coordinator, an alternate coordinator, two team leaders (supervisors) and two alternate team leaders (supervisors) will be selected by the CEOs and their appointments will be reviewed annually. Personnel changes in the coordinator or assistant coordinator position should be staggered to ensure team stability.

The CIRT shall consist of investigators and supervisors from participating agencies. Each member will serve at the discretion of the appointing or current CEO and their appointment must be approved by all the CEOs of the district. A member's CEO may remove their member at any time said CEO desires.

Any member may be removed upon recommendation of the coordinator and with the approval of the participating CEO. All appointments to the team shall be reviewed on an annual basis.



The team leaders will be responsible for developing the less experienced detectives assigned to the team. There must always be a conscious effort to plan for succession and develop other investigators.

The use of non CIRT investigators to supplement official CIRT members can be authorized by the CIRT coordinator on an as needed basis.

### **NOTIFICATION**

Requests for the CIRT's assistance shall be made as soon as possible by the CEO or the designee from the venue agency. All requests for assistance shall be made to the CIRT coordinator, or if unavailable, the alternate team coordinator, who will then serve as the CIRT coordinator for the incident. If the coordinator and alternate coordinator are unavailable one of the designated team leaders can be assigned as an alternate coordinator to activate the CIRT.

The coordinator will assess the details of the incident and will select and assign a team leader. The team leader will decide what personnel and equipment will be needed for the investigation and contact the necessary members of the CIRT with response instructions.

### **EQUIPMENT/TESTS/PERSONNEL COSTS**

All necessary equipment shall be supplied by the venue agency. If additional or specialized equipment is needed, the cost of obtaining such equipment shall be borne by the venue agency, upon approval of the agency CEO. This does not prohibit any individual team member from bringing any piece of equipment he/she deems necessary, providing the venue agency has no objection.

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

All normal personnel costs shall be the responsibility of the agency providing the members to the team and not the requesting agency. Any other personnel costs must be approved by the venue agency prior to being incurred.

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

### **ANNUAL REPORT**

The CIRT Coordinator shall prepare and submit a written annual report to all CEOs, describing the activities of the team for the previous year. This report will be submitted no later than February 1 of the following year.

## **CHANGES TO CIRT PROTOCOL**

Any member agency CEO may request a change to this protocol. The process for a protocol or staffing change will begin with a written request to the designated CIRT Coordinator. The CIRT coordinator will then schedule a meeting with the member CEO's to discuss the proposed modifications.

### **DEFINITIONS**

#### **"Officer-Involved Fatal/Near Fatal Incidents"**

An event occurring in the venue of participating agencies involving two or more people, 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 ride-along's, emergency transports, etc.).
- 6) Vehicular collisions:

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:

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.

Temporary employees and volunteers whether paid or unpaid, who are on-duty or who are acting actually, apparently or purportedly for a law enforcement purpose at the time of the incident. This category includes informants when they are working under the direct control and supervision of a police officer.

"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.

"Subject"

The person who is 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; it is used to designate the person who is physically injured.

"Proximate Cause"

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

"Fatal Injury"

Death.

"Deadly Physical Force"

A level of force, the intended, natural, and probable consequences of which is to produce death, and which does in fact, produce death.

"Serious Bodily Injury"

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

"Venue Agency"

State, County or Municipal agencies, within whose geographical jurisdiction the incident occurs.



"Employer Agency"

The agency employing the involved police employee or with which he/she is affiliated. (In many cases, the venue agency will also be the employer agency.)

"CIRT Investigators"

Those investigators assigned by the agencies who are members of this agreement. To be approved for CIRT assignment the investigator must attend specific training that will be made available periodically.

"Administrative Investigators"

Those investigators assigned by the Employer Agency to conduct the administrative investigation of the incident.

"Member Agencies"

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

**INVESTIGATIVE AGENCIES, FORMATS AND RESPONSIBILITIES**

To properly recognize and accommodate the various interests and the various rules of law which may be involved in any incident, investigations of these matters must be performed under two separate investigative formats: (1) Administrative Investigation; and the (2) 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 may share information with administrative investigation personnel. Absent the limited purposes allowed by law, criminal investigators must 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 approved criminal investigators from the Member Agencies. The CIRT coordinator will designate a team leader from an agency other than the employer agency. The team leader will in turn assign the lead investigator from an agency other than the employer agency. Investigators from the employer agency may assist in all other functions.



Any irreconcilable investigative issues that occur during an investigation shall be decided by the team leader and lead investigator. When appropriate, the coordinator may be consulted.

The CIRT's goal is to gather all available relevant information about the incident. This information will be used in two ways:

- 1) To determine the presence or absence of criminal liability on the part of those involved in the incident. Specifically:
  - to determine whether the conduct involved is prohibited by state statutes;
  - if criminal conduct does exist, determine the identity of the person(s) responsible for that conduct;
  - if criminal conduct does exist, determine the degree of the crime(s); the existence of any factual or legal defenses to that crime; and to determine the presence or absence of any factors which would mitigate or aggravate punishment for that crime.
- 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.)

The investigation is required to follow the rules of law, which apply to all criminal proceedings including constitutional, statutory and case law regarding individual rights, which are covered by the United States Constitution's 4th, 5th, 6th, and 14th Amendments.

The investigation is performed in a thorough, fair, complete and professional manner, which is free of conflicts of interest.

#### Venue Determination:

When an incident occurs in two or more jurisdictions, each of those 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 (ies) shall be:

- The employer agency if the actor is employed by either boundary agency;
- Both boundary agencies if actors are employed by both;
- The agency which has the greater interest in the case by virtue of having the predominant law enforcement involvement in the incident or by virtue of having had the majority of acts leading up to the fatality occurring within its jurisdiction.



When death occurs while the subject is in custody, the venue agency is the agency having custody of the subject at the time of death, except when death occurs at a certified medical facility (outside of the original venue) the original agency remains the venue agency.

#### Vehicle Collision Incidents:

Accidental collision fatalities shall be investigated by the CIRT criminal investigators, joined by accident investigation specialists from the Colorado State Patrol or from other member agencies. The accident investigation specialists have primary responsibility for documentation, collection and preservation of physical evidence. On-scene collaboration with the forensic laboratory personnel is encouraged.

#### Scene Security:

Each agency has initial responsibility for immediately securing crime scene(s) within its jurisdiction. This responsibility includes preservation of the integrity of the scene(s) and contents, access control, and the identification and sequestration of witnesses. Responsibility may be changed by mutual agreement as the investigation progresses.

#### Crime Scene:

In general, the scene or scenes associated with the CIRT incident will typically be processed by the forensic laboratory personnel from an agency other than the employing agency.

Notwithstanding this general protocol, based upon the nature and location of the incident, as well as the availability of laboratory personnel, the team coordinator may utilize laboratory personnel from the employing agency when appropriate. This decision is to be made by the team coordinator, in consultation with the requesting agency administration, on a case by case basis. When laboratory personnel from the employing agency are utilized to process the scene(s), a separate (non-employing agency) CIRT investigator will work in conjunction with the laboratory personnel to preserve the integrity of the process.

Any evidence collected from the crime scene will be stored, managed and maintained by the member agency leading the investigation. This evidence will be managed according the policies and practices of that lead agency.

Pending arrival of forensic personnel, crime scene security will be initiated by responding officers.

Prior to final relinquishment of the scene, the CIRT investigators and the criminalists will provide the administrative investigators an opportunity to assess the scene.



Notifications:

Upon identifying an occurrence as an Officer-Involved Fatal Incident, or incident where there is a substantial risk of death, the venue agency (ies) shall make the following notifications as promptly as possible:

Inter-departmental officers, as required by that agency's procedures. To include personal legal representation as dictated by each employer agency's procedures.

The employer agency, if applicable and if not yet aware.

The CIRT coordinator or their designee.

CIRT personnel will be responsible for the following notifications:

The Assistant or Chief Deputy District Attorney.

A forensic laboratory not affiliated with the employer agency.

Incidents involving vehicular collision deaths, or collisions where there is a substantial risk of death, accident investigation specialists from a member agency.

The Coroner's Office, upon confirmation of a fatality. This is a required notification.

Body removal will only occur after consultation with the team coordinator.

Scene Procedures:

Emergency life saving measures have first priority.

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

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

A written log will be established as quickly as possible to identify all persons entering the scene(s), the time of their entry and exit, and the reason for entry.



When not needed for life saving efforts, entry by fire and ambulance personnel should be restricted to the absolute minimum necessary to perform the needed duties.

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 must be witnessed and logged. The log shall state the identity of the person removing the described object, the reason for removal, a witness to the removal, and the time of removal. The item should be photographed prior to removal.

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

### 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 team coordinator will work with all parties involved to determine when will 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 will be the team coordinators 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 and will not become involved in administrative review of officer incidents. It should be made particularly clear to involved officers that Garrity advisements do not apply.

Interviews should be audio and video recorded but at a minimum will be audio recorded.

The agency administrative review team will have the option of witnessing any officer interview and will be provided with copies of all interview recordings. At the conclusion of the criminal interview, the administrative team can conduct their interview.

The involved officer(s) will be informed that the interview is non-custodial and that all statements are voluntary. Should there be evidence that there was any criminal intent on the officer's part, either before the interview or during the interview, the officer may be advised under Miranda. Should the officer invoke, the interview will conclude and the administrative review team can proceed under advisement of Garrity. Any incriminating information obtained by the administrative review **shall not be disclosed** to any member of the CIRT.

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 also has no responsibility to assign or coordinate peer support for the employer agency. A peer support officer, if assigned by the employer agency, is present in a support role and will not be utilized in any investigative capacity. The peer support officer will act as a gatekeeper, restricting access to the involved officer to prevent contamination of possible trace evidence and communication about the incident. The support officer will also assist the officer in notifying family, taking care of personal needs such as food and changes of clothing, watch for signs of stress and minimize the possibility of secondary trauma. It is critically important the peer support officer work to minimize discussion of the actual incident and simply provide the support needed by the officer.

### **INTOXICANT TESTING**

As soon as practical, the involved officer shall be asked to submit to a blood/urine test. Intoxicant test results will be made available to the administrative review team.

If probable cause does not exist and the involved officer will not consent to a blood/urine test, and sobriety evaluation is pertinent to the investigation of a crime under the C.R.S., the officer may be compelled to submit to a test under the following:

Exigent circumstances;

Administrative employment relationship. If results are obtained under the administrative employment relationship, the results will not be available to the CIRT to prove a criminal element.

### **AUTOPSY**

At least one member of the CIRT will attend the autopsy and will take possession of any evidence.

The autopsy pathologist will receive a complete briefing prior to the post mortem examination. This briefing, which includes all information known at that time which may be relevant to the cause and manner of death, shall be provided.

### **THE DISTRICT ATTORNEY'S OFFICE**

Attorneys from the District Attorney's Office have the following roles in incident 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, analyze the facts of the incident as well as the relevant law to determine culpability.

Notify the CIRT and the venue/employer agency on whether charges will be filed via written document.

### **REPORT WRITING**

All criminal investigators will write reports documenting their participation in the investigation.

The lead investigator has the ultimate responsibility for report writing and for collecting reports from all investigators and member agencies. The team leader has the responsibility of reviewing all reports for content, accuracy and completeness. The final case packet will be reviewed by the team coordinator, or his designee, and the Venue Agency CEO before submission to the District Attorney for review.

Prompt completion and distribution of reports is essential.

### **NEWS AND MEDIA**

The venue agency will be responsible for all news media relations.

To maintain the integrity of the investigation, all media releases should be reviewed with the team coordinator, team leader, lead investigator, and the CEO of the venue and employer agency.

### **ACCESS TO REPORTS AND EVIDENCE**

Material that is created or collected by CIRT investigators (including forensic laboratory accident specialists) will be made available in a timely manner to those agencies that have an interest in the investigation, including the administrative investigators.

The material may include:

- Reports, written and collected
- Access to physical evidence (view only)
- Photographs, diagrams, video and audio recordings

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



CIRT report archives will be held by an agency designated by the CEOs. Those archives will be electronically stored.

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.

### DEBRIEFING

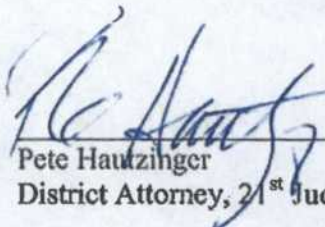
At the conclusion of a CIRT investigation, there will be a debrief of all activities undertaken by the team. This is intended as an investigative debrief as opposed to an incident debrief which should be conducted by the venue agency. It is extremely important this debrief is attended by all investigators assigned to the incident along with representatives from the employer agency, the District Attorney's Office, and any other involved agency or entity. The purpose of this debriefing is two-fold:

It will help to ensure a thorough and complete investigation has taken place. Every effort will be made to conduct the debriefing prior to submission of documents to the District Attorney's Office. This will enable the Critical Incident Response Team's Coordinator to make additional assignments, if deemed necessary by the critique.

The debriefing will also serve as a way to evaluate, and make suggestions to improve the performance of the CIRT, a multi-jurisdictional investigative team.

The debriefing will be open to all CIRT members and appropriate command staff from member agencies.

THE CRITICAL INCIDENT RESPONSE TEAM FOR THE 21ST JUDICIAL DISTRICT IS HEREBY AGREED TO BEGINNING MARCH 1, 2004 BY THE FOLLOWING:

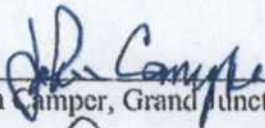
  
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Pete Hauzinger  
District Attorney, 21<sup>st</sup> Judicial District

3/5/12  
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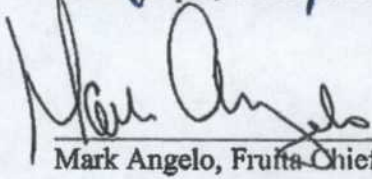
  
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Stan Hilkey, Mesa County Sheriff

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John Camper, Grand Junction Chief of Police

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Mark Angelo, Fruita Chief of Police


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Carroll Quarles, Delta Chief of Police

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Barry Bratt, Major Colorado State Patrol Troop 4-A

3/5/2012.  
Date

  
Ronald C. Sloan  
Director, Colorado Bureau of Investigation

4/25/12  
Date