

**OFFICER-INVOLVED INCIDENT PROTOCOL**

**CRITICAL INCIDENT RESPONSE TEAM**

**17<sup>th</sup> JUDICIAL DISTRICT**



## INTRODUCTION

Incidents where a law enforcement officer uses, or attempts to use, significant force on a civilian are complex investigations that require a comprehensive response. These investigations also demand a commitment to the principles of independence, thoroughness, and transparency. For decades, the law enforcement executives within the 17<sup>th</sup> Judicial District have agreed to convene a “Critical Incident Response Team” (“CIRT”) of independent investigators from within the 17<sup>th</sup> Judicial District to investigate these incidents. Immediately upon notification of an officer-involved incident, investigators from independent law enforcement agencies assemble and conduct the investigation into the incident. The CIRT investigating the incident is comprised of personnel from at least two agencies independent of the involved agency. The use of a multi-jurisdictional independent team protects the integrity of the investigation by providing an objective, unbiased approach to ascertaining the facts and evidence relative to an incident. The protocols for the CIRT shall serve as a guide for the participating members to produce a consistent, complete and thorough investigation.

Protocols for investigating officer-involved incidents are required by §16-2.5-301, C.R.S. (2022):

Each police department, sheriff's office, and district attorney within the state shall develop protocols for participating in a multi-agency team, which shall include at least one other police department or sheriff's office, or the Colorado bureau of investigation, in conducting any investigation, evaluation, and review of an incident involving the discharge of a firearm by a peace officer that resulted in injury or death, or other use of force by a peace officer that resulted in death. The law enforcement agencies participating need not be from the same judicial district.

Consistent with this legislation, the CIRT of the 17<sup>th</sup> Judicial District shall be available to conduct an independent investigation into any incident where a police officer is alleged to have used force on a civilian.<sup>1</sup> Additionally, the chief executive officer of any law enforcement agency of the 17<sup>th</sup> Judicial District may call upon the CIRT to conduct an independent investigation into an incident that necessitates an objective review free from potential conflict. These incidents may include traffic accident investigations where a law enforcement officer, acting under the color of duty, causes injury or death to a civilian or another officer while operating a motor vehicle.

The CIRT is comprised of qualified personnel of the undersigned 17<sup>th</sup> Judicial District law enforcement agencies, otherwise known as the “participating agencies.” The District Attorney, Chiefs and Sheriff of the participating law enforcement agencies are responsible for overseeing the CIRT and selecting the members who participate on it.

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<sup>1</sup> The CIRT of the 17<sup>th</sup> Judicial District will investigate incidents within the city limits of the City of Westminster. The City of Westminster incorporates Jefferson County, which is part of the 1<sup>st</sup> Judicial District. For incidents that occur within the City of Westminster that is part of the 1<sup>st</sup> Judicial District, the District Attorney for the 1<sup>st</sup> Judicial District shall be notified and will assume authority for all criminal investigations and release of information.

When activated, the members of the CIRT shall immediately assemble in order to conduct a complete and thorough investigation. The facts of the investigation shall be presented to the District Attorney's Office for a determination of whether criminal charges should be filed, or whether further investigation is necessary for the charging determination. 30 days after an incident, any 17<sup>th</sup> Judicial District Chief of Police, Sheriff or the District Attorney may request an update from the CIRT regarding the investigation and, when requested, the CIRT shall provide such an update.

The independent investigation of the CIRT is not intended to take the place of an internal affairs investigation by the involved agency. While concurrent investigations may occur, the CIRT investigation shall focus on whether the conduct violated Colorado criminal law and whether criminal charges should be filed. The CIRT is not responsible for reviewing compliance with departmental policies or standards. Nevertheless, the completed CIRT investigation may be shared with the involved agency for internal affairs purposes.

## **DEFINITIONS**

“Employing agency”- the law enforcement agency for which the officer is employed or has a contractual relationship.

“Incident”- event that results in a law enforcement officer's use of force or attempted use of force on a civilian; or event wherein an officer, while acting under the color of duty, causes injury or death to a civilian or another officer while operating a motor vehicle.

“Involved officer”- the law enforcement officer alleged to have used force or to have operated a motor vehicle that causes injury or death.

“Involved agency”- the law enforcement agency with whom the involved officer is associated by employment or other similar contractual relationship, or the law enforcement agency that requests activation of the CIRT.

“Officer-involved investigation” - criminal investigation into a law enforcement officer's use or attempted use of force on a civilian; or criminal investigation into a law enforcement officer's conduct operating a motor vehicle, under the color of duty, which causes injury or death to a civilian or another officer

“Parallel criminal investigation” - criminal investigation that has an evidentiary relationship to the officer involved investigation.

“Participating agency”- the 17<sup>th</sup> Judicial District Attorney's Office and any law enforcement agency within the 17<sup>th</sup> Judicial District that is a signatory to these protocols.

“Supporting agency”- includes the 17<sup>th</sup> Judicial District Attorney's Office and any law enforcement agency within the 17<sup>th</sup> Judicial District that is independent of the involved agency.

“Witness officer”- any law enforcement officer identified as a witness to the incident who,

based upon the evidence, is not an involved officer.

## **PERSONNEL**

The Critical Incident Response Team consists of peace officers and any ancillary personnel designated by the Adams County Sheriff's Office, the 17<sup>th</sup> Judicial District Attorney's Office, and the Police Chiefs of the participating law enforcement agencies within the 17<sup>th</sup> Judicial District. Each participating agency is responsible for assigning personnel to the CIRT. In addition to being responsible for the initial response, CIRT members who assist with an investigation are responsible to attend follow-up meetings and perform additional work necessary to fully complete the investigation.

### **CIRT Coordinators**

Officers with supervisory rank will be appointed to serve as CIRT Coordinators to coordinate and oversee CIRT investigations. The 17<sup>th</sup> Judicial District Attorney, collectively with the Adams County Sheriff and Chiefs of the participating agencies, shall determine the composition of the CIRT coordinators. At least four CIRT Coordinators, each from separate participating agencies, will be assigned to the CIRT. The CIRT Coordinators shall work together to manage the operations of the CIRT Team, oversee all CIRT investigations and lead the team in accordance with the direction and wishes of the Chiefs of Police, Sheriff and District Attorney of the 17<sup>th</sup> Judicial District.

### **The responsibilities of the CIRT Coordinators are:**

- To notify team members of an incident and the commencement of an active investigation;
- To organize, arrange, and direct investigative operations;
- To assign personnel and document tasks;
- To ensure the investigation into an incident is thorough and complete by gathering all relevant evidence and pursuing all possible leads to relevant information;
- To coordinate investigative efforts with any pending criminal investigation that may be associated with the case;
- To provide an update to the Chief of Police, Sheriff or District Attorney upon request, as outlined in the protocols above;
- To arrange for and assist with the presentation of the investigation to the 17<sup>th</sup> Judicial District Attorney and the involved agency;
- To maintain an on-call schedule of at least two CIRT Coordinators available at all times to ensure minimum standards of responsibility for the CIRT;

- To maintain a complete roster of CIRT members and confirm accuracy of the information;
- To coordinate regularly scheduled meetings and trainings for CIRT members.

### **CIRT Lead and Co-Lead Investigators**

The CIRT Coordinators will select a Lead and Co-Lead investigator amongst the members of the CIRT to conduct the investigation into the incident. The Lead and Co-Lead will be responsible for directing and overseeing the specific investigation to which they are assigned and will report to the CIRT Coordinators on the progress of the investigation throughout its pendency.

### **Vehicular Crash Reconstruction Team Leaders**

Investigators with supervisory experience in vehicle crash reconstruction will be appointed to serve as a Vehicular Crash Team Leader for investigations that specifically warrant reconstruction investigation. These Vehicular Crash Team Leaders will be responsible for assigning duties that pertain to vehicle crash investigations. The CIRT will maintain at least two Vehicular Crash Reconstruction Team Leaders, each from separate participating agencies, to serve the role of directing the accident reconstruction portion of these types of investigations. The Vehicular Crash Reconstruction Team Leaders shall work together to ensure minimum standards of responsibility for the CIRT investigations that require vehicle crash investigation experience. The Vehicular Crash Reconstruction Team Leaders will conduct the accident reconstruction portion of a CIRT investigation while the assigned CIRT Lead and Co-Lead Investigators lead the rest of the investigation. The Vehicular Crash Reconstruction Team Leaders will report to the CIRT Coordinators on the progress of the investigation throughout its pendency and will work with the CIRT Lead and Co-Lead Investigation on the overall completion of the assigned investigation.

### **The responsibilities of the Vehicular Crash Reconstruction Team Leaders are:**

- To notify the appropriate team members of a traffic related officer-involved incident and the commencement of an active investigation;
- To organize, arrange, and direct investigative operations for crash-related investigations;
- To assign personnel and document tasks;
- To ensure the investigation into an incident is thorough and complete by gathering all relevant evidence and pursuing all possible leads to relevant information;
- To coordinate investigative efforts with the Lead and Co-Lead investigators;

- To arrange for and assist with the presentation of the investigation to the 17<sup>th</sup> Judicial District Attorney and the involved agency;
- To maintain an on-call schedule of investigators with vehicle crash reconstruction experience available at all times to ensure minimum standards of responsibility for the CIRT;
- To maintain a complete roster of vehicle crash reconstruction investigators and confirm accuracy of the information;
- To participate in the regularly scheduled meetings for CIRT.

### **CIRT Members**

Detectives, investigators, crime scene analysts and other law enforcement personnel from the participating agencies who conduct investigation into incidents and perform those duties as assigned by the CIRT Leaders.

Each participating agency is responsible for selecting individual members to the CIRT who demonstrate the knowledge, ability, and skill to conduct effective investigations for the CIRT. Each participating agency is responsible to provide the necessary personnel to ensure a highly functioning CIRT Team and to meet the demands and workload of the CIRT Team.

Each participating agency will designate a command-level supervisor to coordinate with the CIRT to ensure the accuracy of the list of its designated CIRT members.

### **ACTIVATION**

The CIRT is activated upon the request of the 17<sup>th</sup> Judicial District Attorney, Adams County Sheriff, or any Chief of Police for the various law enforcement agencies within the 17<sup>th</sup> Judicial District, or his or her designee.

When an incident occurs or an involved agency seeks the involvement of the CIRT, the command staff of the Involved Agency shall notify the CIRT Coordinator(s) and the CIRT Coordinator shall activate the CIRT team to respond. In the event the 17<sup>th</sup> District Attorney seeks activation, the CIRT Coordinators shall be notified directly by the District Attorney or his/her designee. The CIRT Coordinators will immediately initiate the call-out process and organizational plan based on the nature of the incident and the investigative needs. Members of the CIRT shall include at least two supporting agencies independent of the involved agency. Any CIRT Coordinator of an involved agency shall not participate in the investigation, nor shall investigators of an involved agency participate, other than the involved agency liaison, as outlined below. In the event there are less than two CIRT Coordinators of a supporting agency available, the CIRT Coordinators may designate a member or, as needed, members of the CIRT from any supporting agency to act as Coordinator. The CIRT will meet at a law enforcement agency designated and arranged by the CIRT Coordinators to conduct the investigation.

Once assembled, the CIRT members will receive an informational briefing by a member of the involved agency concerning any knowledge of events leading up to the CIRT activation. Following the briefing, the CIRT Coordinators shall direct the investigation and assign CIRT members to specific tasks as necessary and appropriate, including designating CIRT Lead and Co-Lead Investigators and, when appropriate, Vehicular Crash Reconstruction Team Leaders to conduct the investigation.

**Involved Agency Liaison.** The involved agency shall provide a liaison to the CIRT Coordinators. The liaison shall be clearly identified to all CIRT members and shall assist with any needs which may arise during the investigation as well as assist with communication between the involved agency and the CIRT.

**Parallel Criminal Investigation.** In the event of an ongoing criminal investigation that has an evidentiary relationship to the officer-involved incident, an assessment must be made whether the involved agency has a conflict that prevents the involved agency from continuing to work on the case. The CIRT Coordinators should coordinate with the investigators of the involved agency and the 17<sup>th</sup> Judicial District Attorney to determine whether the involved agency should continue the parallel criminal investigation. If the determination is made that the involved agency should *not* conduct a parallel criminal investigation and that an independent criminal investigation should take place instead, then the CIRT Coordinators shall organize, arrange, and direct further investigative operations of the independent criminal investigation.

## **SCENE AND EVIDENCE**

The involved agency shall secure and preserve the scene to the extent possible consistent with generally recognized best investigative practices. In the event that securing the scene is not possible due to health and safety risks, officers of the involved agency shall advise the CIRT Coordinators. In addition, all witnesses should be fully identified by the involved agency and the involved agency shall make efforts to make said witnesses available for interviews by the CIRT.

**Involved Officer Weapon.** Any weapon alleged to have been used by an officer during the use of force or attempted use of force incident shall be collected, secured, and preserved as soon as possible by either a member of the CIRT or by the involved officer's supervisor or supervisor's designee in accordance with the involved agency's policy. Any weapon left on scene shall not be disturbed unless it poses a safety risk. Where the involved weapon is a firearm, it shall be retained by the CIRT pending complete investigation, which shall include, at minimum, round accountability. The CIRT Coordinators shall communicate with the 17<sup>th</sup> Judicial District Attorney to direct evidentiary testing, storage, and disposition of weapon evidence.

**Evidence Collection and Storage.** The CIRT shall document and collect all evidence related to the incident. The CIRT Coordinators shall designate a supporting agency for storage of the evidence. The involved agency is responsible for storage of any evidence associated with a parallel criminal investigation that it is conducting. Any evidence collected will remain with

the respective agency where it is stored until the final disposition of the investigation. Upon final disposition, the evidence associated with the officer-involved incident may be returned to the involved agency.

**Body-Worn or Dashboard Cameras.** The CIRT Coordinator(s) will ascertain whether the evidence of the incident includes footage from body-worn cameras or dashboard cameras and ensure they are downloaded and preserved as soon as practicable.

## **INTERVIEWS**

Interviews shall be conducted of all available witnesses as soon as practicable. A team of two CIRT members will be assigned to interview all material witnesses, including the involved officer(s). Interviews will be conducted in person and shall be video and audio recorded. The recorded interviews will be collected as evidence in the case. The location of the interviews will be at the discretion of the CIRT Coordinator(s).

### **Involved-officer interviews**

The CIRT Coordinator(s) will meet with the involved officer(s) and/or their attorney to arrange an interview as soon as practicable after the incident. If the involved officer requests to delay the interview for any reason, the CIRT Coordinator(s) shall coordinate a mutually convenient time for the interview as soon as practicable given the nature of the request to delay. The Coordinator(s) shall instruct the involved officer not to discuss any facts regarding the incident with anyone other than his or her attorney during the period of delay. The Coordinator(s) shall also instruct the involved officer not to access any media or other informational source regarding the incident during the period of delay. The fact that an involved officer requests a delay shall be documented in any report associated with the involved officer(s) interview.

The involved officer(s) shall not be given access to any evidence associated with the incident prior to the interview, including his or her body-worn camera. In addition, the evidence shall not be provided to an attorney or other representative for the involved officer(s). If the investigation includes recorded video footage of any format, the involved officer(s) shall not be given access to such evidence. The recorded footage may be accessible to members of the CIRT as necessary for the investigation. The involved officer will be given an opportunity to review footage following his or her interview. Following that review, the involved officer will be afforded the opportunity to offer an additional statement(s).

### **Witness officer interviews**

The CIRT may choose to conduct an in-person interview of any law enforcement officer it identifies as a witness officer who is not directly involved in the use, or attempted use, of force. Any witness officer who delays an interview shall be required to submit a written report of the incident prior to the end of his or her shift, in compliance with the policy of his or her employing agency. Such report must be made available to the CIRT Coordinator(s) as soon as practicable during the immediate investigation. A witness officer may not decline an in-person interview solely on the basis that he or she prefers to write a written report. The fact that the

witness officer requests a delay shall be documented in any report associated with the involved officer(s) interview.

### **Transcription.**

All of the involved officer(s) interviews shall be transcribed by staff designated by the CIRT Coordinator(s). Other material witness interviews may be transcribed at the discretion of the Coordinator(s).

## **RECORDS**

**Reports.** Any CIRT member assigned to an incident investigation shall document his or her findings in a written report utilizing the standard CIRT supplemental report form or other similarly acceptable format. Individual CIRT members are responsible for completing a report in a timely manner and providing it to the lead CIRT member(s) assigned to the investigation.

**Retention.** During the active investigation, records shall be gathered and maintained by the lead CIRT member(s) assigned to the investigation. At the conclusion of the investigation, a complete electronic copy of the records of the investigation shall be provided to the 17<sup>th</sup> Judicial District Attorney's Office. Upon final disposition of the investigation, the complete copy of the records of the investigation will be provided to the involved agency.

**Discovery.** The CIRT Coordinator(s) shall communicate with the 17<sup>th</sup> Judicial District Attorney to ensure the proper and timely flow of discovery of records or other information on any pending parallel criminal investigation.

**CCJRA/Media.** During the pendency of the investigation, any CJRA or media request for information shall be referred to the CIRT Coordinator(s) to communicate with the 17<sup>th</sup> Judicial District Attorney and the involved agency for an appropriate response under the law.

## **INFORMATION SHARING**

The CIRT is committed to the principles of integrity and transparency. While officer-involved incidents necessarily attract a great degree of public interest, they also may implicate personal and privacy interests, as well as legal and ethical interests. The Colorado Rules of Professional Conduct 3.6 and 3.8 prohibit the prosecution from disclosing specific factual details of the investigation during the pendency of a criminal case. As such, until a final disposition of the criminal investigation, the 17<sup>th</sup> Judicial District Attorney must consider these limitations in connection with any participating agency's release of information concerning the incident. Furthermore, during the pendency of an investigation, it may be necessary to limit public release of specific details of the investigation until certain notifications are made.

**Civilian/Family.** Any civilian subject to the alleged use of force by an involved officer has the right to receive information that an investigation into the incident is pending. If a civilian is deceased as a result of alleged use of force by an officer, members of the CIRT

investigating the case shall notify the identified next of kin for the civilian of the pending investigation as soon as practicable. Such notification may be made in coordination with the Adams and Broomfield County Coroner's Office. Upon request, the 17<sup>th</sup> Judicial District Attorney's Office will keep the civilian's family apprised of the status and timeline of the investigation.

**Involved officer.** The CIRT Coordinator(s) will keep the involved officer(s) and involved agency apprised of the status and timeline of the investigation.

**Media/Public Information Release.** The CIRT is not responsible for the public release of information. Each individual law enforcement agency in the 17<sup>th</sup> Judicial District is responsible for managing its own media inquiries or public information requests. During the pendency of the active investigation, the 17<sup>th</sup> Judicial District Attorney will consult with the chief executive officer of the involved agency, or his or her designee, before deciding whether to publicly release any information regarding the investigation.

## **PRESENTATION**

The 17<sup>th</sup> Judicial District Attorney shall review the complete investigation of the incident to determine whether the filing of criminal charges is appropriate or whether further criminal investigation is necessary. When the CIRT Coordinator(s) believes the CIRT has conducted a thorough and complete investigation, the Coordinator(s) or his/her designee shall present the investigation to the 17<sup>th</sup> Judicial District Attorney's Office. No member of the involved agency shall attend any presentation to the 17<sup>th</sup> Judicial District Attorney. However, the involved agency may request a separate presentation by the CIRT Coordinator or his/her designee to the Sheriff or Chief of Police of the involved agency.

Once the 17<sup>th</sup> Judicial District Attorney has reviewed the investigation of an officer-involved incident resulting in injury or death and made a decision on whether charges will or will not be filed, he will communicate that decision to the Sheriff or Chief of Police of the involved agency and to the public at large, as required by law.