

OFFICER-INVOLVED INCIDENT PROTOCOL

CRITICAL INCIDENT RESPONSE TEAM 17th JUDICIAL DISTRICT



INTRODUCTION

Incidents where a law enforcement officer uses, or attempts to use, 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 17th Judicial District have agreed to convene a “Critical Incident Response Team” (“CIRT”) of independent investigators from within the 17th 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. (2020):

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. The law enforcement agencies participating need not be from the same judicial district.

While this particular legislation focuses on incidents involving the discharge of a firearm that results in injury or death, the significance of these investigations is not limited to shootings resulting in injury. A law enforcement officer’s use of force or attempted use of force on a civilian raises the same concerns and desire for independence despite the manner of force used, and despite whether such force results in injury or death. As such, the CIRT of the 17th 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. Furthermore, due to the natural public concern surrounding any civilian death or injury while in police custody, the CIRT is also available to conduct an independent investigation into those incidents. Additionally, the chief executive officer of any law enforcement agency of the 17th Judicial District may call upon the CIRT to conduct an independent investigation into an incident that necessitates an objective review free from potential conflict.

The CIRT is comprised of qualified personnel of the undersigned 17th 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 selecting the members to participate on the CIRT.

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 17th Judicial District Attorney's Office for a determination of whether criminal charges should be filed, or whether further investigation is necessary for the charging determination.

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.

“Involved officer”- the law enforcement officer alleged to have used force.

“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.

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

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

“Supporting agency”- includes the 17th Judicial District Attorney's Office and any law enforcement agency within the 17th 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 Investigation Team consists of peace officers and any ancillary personnel designated by the Adams County Sheriff's Office, the 17th Judicial District Attorney's Office, and the Police Chiefs of the participating law enforcement agencies within the 17th 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 assisted with an investigation may be responsible for follow-up meetings and additional work to fully complete the investigation.

CIRT Coordinators. Officers with supervisory rank will be appointed to serve as CIRT coordinators. The 17th 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 three coordinators, each from separate participating agencies, will be assigned to the CIRT. The coordinators shall work together to ensure minimum standards of responsibility for the CIRT.

The responsibilities of the CIRT Coordinators are:

To maintain an on-call schedule of at least two 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 notify team members 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 arrange for and assist with the presentation of the investigation to the 17th Judicial District Attorney and the involved agency;

To coordinate regularly scheduled meetings and trainings for CIRT members.

Addition/Removal of members:

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 ensure the accuracy of the list of its designated CIRT members

ACTIVATION

The CIRT is activated upon the request of the 17th Judicial District Attorney, Adams County Sheriff, or any Chief of Police for the various law enforcement agencies within the 17th 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 Coordinator shall activate the CIRT team to respond. In the event the 17th District Attorney seeks activation, the Coordinators shall be notified directly by the District Attorney. The 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 Coordinators of a supporting agency available, the Coordinators may designate member(s) of the CIRT from any supporting agency to act as Coordinator(s). 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 coordinators shall direct the investigation and assign CIRT members to specific tasks as necessary and appropriate, including designating a lead or two co-lead investigators to lead 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 Coordinators should communicate with the investigators of the involved agency and the 17th Judicial District Attorney to determine whether the involved agency should continue the parallel criminal investigation as soon as practicable. If the determination is made that an independent criminal investigation must take place, the Coordinators shall organize, arrange, and direct further investigative operations.

SCENE AND EVIDENCE

The involved agency shall secure and preserve the scene to the extent possible consistent with generally recognized practices. In the event that securing the scene is not possible due to health and safety risks, officers of the involved agency must advise the CIRT Coordinators. In addition, all witnesses should be fully identified and efforts made to make them 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 will communicate with the 17th 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. 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. 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 to the investigation. The involved officer will be given an opportunity to review the 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 draft 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 requested 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 17th 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) should communicate with the 17th Judicial District Attorney to ensure the proper and timely flow of discovery of records or other information on any pending parallel criminal investigation.

CJRA/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 17th 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 17th 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 17th 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 17th Judicial District is responsible for managing its own media inquiries or public information requests. During the pendency of the active investigation, the 17th 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 17th 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) believe the CIRT members have conducted a thorough and complete investigation, the Coordinator(s) shall schedule a presentation to the 17th Judicial District Attorney's Office. No member of the involved agency shall attend the presentation to the 17th Judicial District Attorney. However, the involved agency may request a separate presentation to the Sheriff or Chief of Police of the involved agency.

Once the 17th Judicial District Attorney has reviewed the investigation 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.