OFFICE OF THE DISTRICT ATTORNEY
EIGHTH JUDICIAL DISTRICT

CRITICAL INCIDENT PROTOCOL

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TO LAW ENFORCEMENT AGENCIES OF THE EIGHTH JUDICIAL DISTRICT

This protocol has been developed by the law enforcement agencies in the Eighth Judicial District and the District Attorney's Office in an effort to standardize the investigative process and provide guidelines when a critical incident occurs. This manual is designed to ensure an expeditious, unbiased, and comprehensive approach that is not only fair to the officer, agency, and other involved persons, but is also designed to be responsive to the community's interest in the integrity and transparency of these important investigations.

Law enforcement agencies in the Eighth Judicial District have been using a version of this protocol since 2005. In our continuing effort to ensure a thorough and unbiased investigation of any critical incident involving a law enforcement officer, Eighth Judicial law enforcement agencies and the District Attorney's Office have reviewed and made changes to the original Protocol that was adopted in 2005, and the protocols were revised in 2015, 2018, and 2022. I thank and commend the work of all the individuals and agencies involved in developing, reviewing, and enacting this protocol.

Public trust in law enforcement and the criminal justice system is vital to the safety and fairness which we all endeavor to ensure in our communities. The robust, unbiased, and transparent procedures contained in this protocol will not only ensure there is accountability for any potential criminal behavior but will give our community the knowledge and framework with which to evaluate our performance and have faith in the results of our investigations.

Gordon P. McLaughlin

District Attorney

8th Judicial District

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CRITICAL INCIDENT PROTOCOL
CRITICAL INCIDENT RESPONSE TEAM (CIRT)

INTRODUCTION

The integrity of a law enforcement agency is never more closely critiqued as during and following the investigation of an incident, which results in death or serious bodily injury. Because the credibility of the law enforcement agency involved is intensely scrutinized during these high-profile investigations, outside criminal justice agencies that include the District Attorney's Office and the Larimer County Coroner's Office are intricately involved in the investigation of these incidents.

The public's right to know what occurred may require balancing with investigative necessity, rights of privacy, rights to a fair trial, and other legal and ethical obligations. In addition to the knowledge, skill, and resources required to investigate civilian homicide cases, officer-involved critical incidents present a combination of unique complexities. These investigations often involve a homicide investigation that must be integrated and coordinated with an administrative investigation. Each incident has potential social, civil, administrative, and criminal consequences. Confusion, and even conflict, can occur among individuals and agencies based upon their differing interests, duties, perspectives, authority, training, and resources. Unless resolved in advance, these complexities can unnecessarily compromise these investigations.

As a result, the undersigned agencies recognize the need to conduct an expeditious and thorough investigation of these types of incidents and determine whether the actions of the agency and its employees were justified and consistent with the law and agency policies, procedures, directives, and training. Incident investigators and agency managers must understand the legal rights, obligations, and authority of the agencies and individuals involved. They must recognize and reconcile police officers' constitutional rights against their rights and obligations resulting from the employer/agency relationship.

One of the primary purposes of this protocol is to standardize the investigation of police employee critical incidents within the Eighth Judicial District. This protocol was developed by Larimer and Jackson County Law Enforcement Agencies and the District Attorney's Office in an effort to standardize the investigative process and to serve as a model and guideline for the investigation of police employee critical incidents in the Eighth Judicial District. The goal of the protocol is to help ensure such cases are thoroughly and fairly investigated.

This protocol represents the understanding and agreement between Larimer and Jackson County law enforcement agencies about how such cases are to be investigated.

This protocol, which is not a statute, ordinance, or regulation, is not intended to increase

the civil or criminal liability of member agencies or their employees. It shall not be construed as creating any mandatory obligations to, or on behalf of, any third parties. It should, however, be closely adhered to in the name of fairness and public trust.

DEFINITIONS

A. Critical Incidents

Incidents occurring in the Eighth Judicial District, involving two or more people, in which a police agency employee is involved as an actor, victim, or custodial officer and where fatal injury (see definition) occurs, where fatal injury is likely, or where serious bodily injury (see definition) is evident at the time of the incident.

The following **examples** are incidents where serious bodily injury or fatal injury has occurred and are therefore applicable to this protocol:

1. Intentional and accidental shootings, including police tactical incidents involving SWAT teams
2. Intentional and accidental use of deadly weapons
3. Assaults upon police officers or assaults on other police employees via a deadly weapon who are on duty or are acting for a law enforcement purpose
4. Attempts by police employees to make arrests or to otherwise gain physical control for a law enforcement purpose where fatal injury occurs
5. Physical altercations, mutual combat, and domestic violence in which the police employee is acting in a private citizen capacity
6. Any custodial death, except those that occur while the prisoner is under physician's treatment for a disease or other natural condition which has been diagnosed prior to death and which does not involve custodial trauma, custodial suicide or custodial ingestion of toxic substance; however, for all custodial death investigations, the custodial agency shall also be deemed the Venue Agency
7. Vehicular collisions resulting in death or serious bodily injury, including but not limited to:

    a) Those which resulted from police gunfire directed at the suspect or suspect vehicle
    b) Incidents in which a police vehicle was used as a technique to apprehend a suspect (e.g., ramming, roadblock)
    c) Incidents in which death or serious bodily injury was suffered by a person who was a passenger of a police officer (e.g., ride-a-longs, emergency transports)

Police pursuits where suspect vehicle collides with another vehicle, pedestrian, or object, where that collision did not result from collision contact between the suspect vehicle and the police vehicle should be assessed for discretionary invocation of CIRT.

Notwithstanding the lack of death or serious bodily injury, any discharge of a firearm by a peace officer that results in an injury is an incident where this protocol is applicable.

B. Fatal Injury

Death or injury which is so severe that death is likely to result.

C. Serious Bodily Injury

Bodily injury which, either at the time of the actual injury or at a later time, involves a 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 burns of the second or third degree.

D. Venue Agency

The agency or agencies within whose geographical jurisdiction and within whose primary, usual, and customary service delivery area the incident occurs.

E. Involved Agency

The agency with which the involved police employee is employed or is affiliated with (in many cases, the venue agency will also be the involved agency)

F. Police Employee

A person compensated by a law enforcement agency or authorized volunteer of that law enforcement agency who performs an act for the benefit of and subject to the control of that agency. However, an officer acting pursuant to authority under a special commission is not considered an employee of the agency granting the special commission.

G. Involved Officer

A police employee, whether on or off duty, who is involved in a critical incident as an actor, victim, or custodial officer. When circumstances warrant, a witness officer may be deemed an involved officer for purposes of this protocol (e.g. shooting where one officer fires and the other does not).

INVOCATION OF PROTOCOL

A. This protocol is immediately and automatically effective upon the occurrence of a critical incident. The venue or involved CIRT Commander shall attempt to reach other CIRT Commanders to discuss invocation. The agency shall alert Fort Collins Police Services Dispatch of a CIRT incident. Dispatch will alert the primary CIRT responders via page.

B. Modified Protocol - Once invoked, the CIRT may, by mutual agreement of the CIRT Commanders, temper the requirements of the protocol based upon the facts and circumstances of a particular incident. Such a "modified protocol" shall include involvement or oversight by a non-involved agency yet reduce the functions which non-involved agencies must perform.

C. Discretionary Invocation - Any participating agency may request to invoke a full or modified protocol for any sensitive or critical event not previously defined as a critical incident. When an incident that raises the question of discretionary invocation occurs, discussion should occur among the CIRT Commanders regarding invocation and what level of response is required. Examples of discretionary invocation may include:

Discretionary Incidents which *shall require consultation* among CIRT Commanders as to the best course of action:

- Any fatality not covered by this protocol.
- Any incident in which serious bodily injury becomes evident after the fact.
- Any incident where breaks or fractures occur.

Discretionary Incidents which each agency *should* assess *for consultation among* CIRT Commanders:

- An incident in which the injuries related to a use of force were not fatal and did not cause SBI or breaks or fractures, but raise the concerns contemplated in this protocol.
- Any use of a firearm, or other deadly weapon, by a non-law enforcement actor who may be acting in furtherance of law enforcement, such as an EMT or citizen under direction to assist.
- Any incident which bears credible evidence of a crime committed by a law enforcement officer that may be of a complex or sensitive nature.

D. Jackson County - When any request is made by, or on behalf of, Jackson County law enforcement, special considerations for communication and invocation are necessary given the significant response time for Larimer County agencies and the limited ability to communicate while en route. The Jackson County Sheriff, or their designee, shall, to the full extent their safety allows, provide a thorough explanation of events as they know them upon initial invocation request, make every effort to

personally inform CIRT Commanders of said information, and provide continuous updates as to the status of events up to and until full CIRT response arrives or is officially called off. Additional space to separate involved witnesses and conduct interviews is available at the US Forest Service Building at 100 Main Street.

VENUE DETERMINATION

Generally, the agency within whose geographical jurisdiction the incident occurs is the 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 shall be:

- The involved agency if the involved officer is employed by either boundary agency.

- The agency which has greater interest in the case by virtue of having predominant police involvement in the incident or by virtue of having had the majority of acts leading up to the CIRT incident occurring within its jurisdiction.

The Eighth Judicial District's CIRT shall investigate all peace officer shootings, occurring in the district wherein injury or death occurs, regardless of whether the peace officer is employed in the Eighth Judicial District. In such event, the involved officer's involved agency may assign liaison officers to the CIRT.

For custodial deaths, the agency having custody of the person at the time his/her distress was first discovered is the venue agency.

Vehicular collisions meeting the definition of a critical incident shall be investigated with the assistance of accident investigation specialists from any of the participating agencies.

INVESTIGATIVE FORMAT

The investigation of these types of cases is complex due to the need for concurrent criminal and administrative investigations. Integrating and coordinating the various interests (Administrative Investigation, Peer Support Teams, Shooting Review Boards, Coroner's Office, District Attorney, Media, Citizen Review Boards, etc.) involved in these incidents is challenging with a high potential for conflict. In order to adhere to the various rules of law particular to the administrative and criminal investigations, the criminal investigation shall have investigative priority over the administrative investigation and is the umbrella under which the administrative investigation takes place. In order to ensure a fair, complete and objective criminal investigation, the lead investigators from the CIRT are vested with the authority to make reasonable investigative decisions.

The administrative investigation 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.

To protect the integrity and independence of the investigation, no involved agencies or employees shall render opinions as to the legality of the use of force in the presence of CIRT investigators prior to the District Attorney's final decision. The involved agency shall be especially mindful in remaining silent as to the propriety of the use of force so as to not create any appearance of conflict or influence. Except for the limited purpose of briefing CIRT investigators on the scene, no involved agency employees shall influence the course of the investigation. No involved employees – before, during, or after a use of force – shall themselves be part of any case discussions or CIRT briefings. For consistency, the involved agency shall appoint a "point person" at their agency to handle requests for evidence and information in their possession.

The checklists contained in the CIRT protocol serve as a guideline. Requirements for each role may vary depending on the type of CIRT incident and the investigative necessities of unforeseen situations.

CRIMINAL INVESTIGATION PURPOSE

The purpose of the criminal investigation is two-fold:

1. To conduct a thorough investigation of the highest quality so that a decision can be made by the Larimer County District Attorney's Office as to whether anyone committed a crime during the course of the critical incident or any related actions before or after the critical incident.

2. To incidentally provide factual information to the administrative investigators for the agency's internal use. Criminal investigators must recognize that while their priority is the criminal investigation, they must be aware of and collect information and evidence that may be germane to the involved agencies administrative purposes.

THE INVOLVED POLICE EMPLOYEE

1. Calm Down and Ensure All Threats to your Safety are Over

- ☐ Notify Communications and request a supervisor if one is not already on scene
- ☐ Broadcast lookouts
- ☐ Request backup and related support services
- ☐ Assign responsibilities to responding units based on priority
- ☐ Ensure body worn camera is recording

2. First Aid

- ☐ Request an ambulance, two if needed
- ☐ Render aid

3. Secure Scene

- ☐ Secure your weapon in the holster. Do not open, reload, remove shell casings or in any other manner tamper with involved firearms.
- ☐ Should you become separated from your weapon during the shooting, the weapon is part of the crime scene and should not be moved (assumes a tactically stable situation)
- ☐ Secure any shoulder weapon in the trunk or gunlock of your vehicle
- ☐ Secure any part of the scene that might be destroyed or damaged in the first few seconds (e.g., evidence kicked away or washed away by rain/snow)
- ☐ Secure the perimeter and protect evidence
- ☐ Identify persons leaving the scene
- ☐ Identify witnesses and request cooperation

4. Absorb What You See and Who You See

- ☐ Take notes of what you deem important
- ☐ If practical, begin taking photographs of the scene activity

5. A supervisor may ask you what happened in order to locate suspects, witnesses, victims and evidence. These questions will generally focus on public safety and scene management.

- ☐ If you are an involved or witness employee, do not talk with other witnesses or involved police employees about the incident.

6. Once the situation is stable, you will be transported away from the scene to a designated location free from the distractions of the investigative process. You can expect the following:

- ☐ An officer or supervisor will be the "gatekeeper" and restrict access to you.

- ☐ Investigators will photograph you in your police attire, as well as any injuries or anything else of evidentiary value. Your uniform or clothing may be taken, depending upon its evidentiary value.

- ☐ Your entire gun belt, with gun in holster, may be retrieved by investigators, depending on its evidentiary value, and a replacement weapon/leather issued to you.

- ☐ An opportunity to provide toxicology samples (blood/breath/urine) will be provided.

- ☐ Peer support personnel who are not involved in the incident or its investigation will be made available to you.

- ☐ You may contact family members and, within reason, have them with you.

- ☐ You will be given the opportunity to contact any legal representation that you desire.

- ☐ A command officer from your agency will personally contact you to express support during this stressful time. They will not question you about the incident.

Expect a lengthy delay prior to your interview. If you wish, use this time to make notes about the incident. Every attempt will be made to provide an estimate as to when the interview will take place.

You shall not review video evidence prior to interviewing. You shall not discuss facts of the incident prior to interviewing other than the limited exceptions provided above. In limited circumstances imminent and ongoing community safety threats may necessitate review of video evidence on-scene.

SUPERVISOR AT THE SCENE

** Incident Command will be relinquished to the CIRT immediately upon a team member's arrival **

1. Establish Control

- ☐ Go directly to the involved police employee and establish control of the scene
- ☐ Ensure safety of scene
- ☐ Determine involved police employee's condition and act appropriately
- ☐ Address the following public safety and scene management issues with the involved police employee:

    - Injured people and medical attention needed.
    - Outstanding suspect information, including identifying information, crimes committed, flight information, vehicle, level of hazard to the public, evidence proving guilt, etc.
    - Weapons information, including who fired, number of shots, direction of fire, current location of weapons.
    - Identity of people involved in the incident as actors, witnesses, and victims.
    - The identity, location and size of the crime scenes and preservation of evidence concerns.
    - The identity and location of physical evidence.
    - Separate involved and witness police employee when the scene is tactically stable.

- ☐ Tactical debriefings (e.g., SWAT) will not occur until after the criminal investigation

2. Broadcast information

- ☐ Suspects, vehicles, and witnesses
- ☐ Use caution on radio broadcasts
- ☐ Protect sensitive investigative information

3. First Aid

- ☐ Ensure first aid is being administered

4. Establish incident command procedures

- ☐ Request additional officers as needed
- ☐ Establish a command post, neutral ground, outside perimeter and staging area

5. Notifications

Upon identifying an occurrence as a CIRT incident, the venue agency shall make the following notifications:

- ☐ CIRT commander and request incident response
- ☐ Intra-departmental officers as required by the venue agency's procedures
- ☐ The involved agency or agencies if applicable

6. Control ambulance and fire activity

- ☐ Restrict ambulance and fire activity to absolute minimum if not needed for life saving efforts
- ☐ Ambulance transport - assign an officer with a recording device to each injured person transported to the hospital for the following purposes:

    - Protect, secure, and recover physical evidence
    - The shirt is often the most important piece of evidence in a shooting
    - Record dying declarations or spontaneous statements
    - Custody of arrestee
    - Provide information to and receive information from medical personnel
    - Identify relevant people, including witnesses and medical personnel
    - Eventual contact of suspect/victim's families upon their arrival at hospital

7. Photograph or video record scene as it develops

- ☐ If circumstances allow, assign an officer to photograph or video record (if POV or other video cameras are present) the scene while medical personnel are performing their duties. These photographs or video recording will document evidence that may be compromised during lifesaving efforts

8. Scene security

- ☐ Identify and secure all scenes
- ☐ Aggressively control and protect scenes not already protected
- ☐ Extend scene boundaries wider than what appears necessary
- ☐ Consider multiple crime scenes (original felony, escape/chase route, fatal scene, suspect, suspect's and officer's vehicles, arrest location, hospital, etc.)
- ☐ Escape route has potential for disposal of evidence
- ☐ Limit access and use crime scene entry log to identify all persons entering or exiting the scene, the reason for their entry and the date and time of entry and **exit**
- ☐ Establish a perimeter that distances the media from essential personnel
- ☐ Consider long-range media camera lenses and appropriately secure sensitive

evidence (bodies, blood, etc.)

9. Perishable evidence

- ☐ Consider collecting GSR from suspect at scene prior to transportation if delay will not be life threatening
- ☐ Consider collecting GSR from citizen or bystanders in close proximity to firearm discharge
- ☐ Photograph, collect and document any perishable evidence that may be destroyed

10. Involved officer's firearms

- ☐ If in his/her possession, firearms should be left in officer's holster. Removing a weapon from its holster may disturb critical trace evidence
- ☐ Leave discarded weapons in place if scene is secure

11. Move involved police employee from scene

- ☐ Arrange transportation to a designated location by a supervisor or officer who were not involved in the incident
- ☐ Assign personnel to serve as the gatekeeper as it relates to access to the involved police employee until relieved (see Gatekeeper Responsibilities)
- ☐ Sequester involved police employee(s) with non-involved peer support officer until investigative interviews
- ☐ Involved police employee witnesses (s) shall not talk among themselves about the incident until they have all provided appropriate reports/interviews.

12. Witness officer

- ☐ Primary responsibilities are scene safety and security until relieved
- ☐ Render aid
- ☐ Officers should be separated but remain on scene for investigators
- ☐ Witness officers shall not talk among themselves or with involved officer

13. Witness officer's firearms

- ☐ Leave weapons holstered and secured until a member of the CIRT is able to check and document status (e.g., recently fired, chambered round, magazine status)
- ☐ If circumstances dictate, consider GSR

14. Locate witnesses

- ☐ Isolate witnesses. This includes involved and witness officers. Do not allow them to talk among themselves
- ☐ Interview witnesses as though it will be the only interview
- ☐ Hostile witnesses should take priority

- ☐ Identify and document witnesses who claim to have no knowledge of the incident
- ☐ Witnesses should remain on scene for preliminary investigation by criminal investigators
- ☐ Consider occupying witnesses by having them fill out a written statement
- ☐ Remove unauthorized people from scene, being careful not to scare off potential witnesses

15. Area canvasses

- ☐ Locate witnesses, relevant vehicles, weapons
- ☐ Document when people say they saw nothing
- ☐ Document addresses where no one was contacted

16. Prepare summary of activities accomplished and resource allocations

- ☐ What has been accomplished
- ☐ What needs to be accomplished
- ☐ Where personnel are assigned and their assigned duties

17. Briefing

- ☐ Take time to collect your information and thoughts so you can brief CIRT members when they arrive

TRANSPORTATION AND SEQUESTRATION OF INVOLVED POLICE EMPLOYEE

1. Transportation

- ☐ Transport the involved police employee via a supervisor or non-involved officer to a designated location
- ☐ Do not leave the police employee unattended or discuss the incident details with the involved police employee
- ☐ Perform gatekeeper responsibilities until relieved by other personnel.
- ☐ After evidence processing (see Officer Involved as a Crime Scene) has been completed, the police employee's involvement in the investigatory process is voluntary
- ☐ Officers not employed by the venue agency will be transported to their parent agency or any other designated location

2. Sequestration

The primary purposes of voluntary sequestration are to protect the integrity of the investigation by ensuring involved police employees do not talk among themselves, to witnesses or third parties who may unintentionally relay information to interviewees and to ensure that any one-on-one conversations are privileged.

- ☐ Ensure that sequestered involved police employee(s) do not discuss the incident among themselves or with anyone else
- ☐ Involved police employees should not review video or audio recordings of the event prior to their interview (for example: dash camera video, surveillance video, body-mounted camera audio or video). However, involved officers will be given the opportunity to review relevant video after they have completed their video interview of the event. A follow-up video interview, subsequent to video viewing, is authorized. (Note: Investigative needs may necessitate modifications to this section or other provisions of this protocol. See section "Invocation of Protocol" for authorization.)
- ☐ Do not allow any other direct (e.g., cell phone) or indirect (e.g., third-party) communication about the incident until interviewed by the assigned investigator with the following exceptions:

    - Conversations with the patrol supervisor or assigned investigator that are narrowly focused toward first-aid, public safety, physical evidence, or scene security (see Supervisor Checklist).

    - One-on-one conversation with clergy, licensed mental health professional, legal counsel, or spouse.

3. Psychological break

After the police employee is processed for evidence, the police employee should not be isolated. The police employee is a cooperative subject and can determine who has access to him at any point in time and is a voluntary participant in the investigation. The police employee is provided a psychological break from the incident and some recovery time (privacy) for comments and actions that are part of stress relief. There is also a need to insulate the police employee from contact with the suspect's family, press, witnesses, and non-pertinent fellow police employees.

GATEKEEPER RESPONSIBILITIES

If possible, gatekeeper responsibilities should be fulfilled by a supervisor.

- ☐ Ensure compliance with sequestration responsibilities.
- ☐ Notify Peer Support Team if not already accomplished.
- ☐ Restrict access to involved police employee to prevent contamination of possible trace evidence and communication about the incident.
- ☐ Restrict physical contact with the involved police employee by all parties until evidence processing is completed by investigators. Family members, Peer Support Team members, and command officers may be present but shall have no physical contact with the officer until evidence processing is completed.

Coordinate with CIRT Leader- Crime Scene to coordinate collection of evidence.

- ☐ Collect evidence from involved police employee when requested by CIRT Leader- Crime Scene (see, Police Employee as a Crime Scene).
- ☐ Coordinate replacement uniform or personal clothing if needed.
- ☐ Notify designated firearms officer for a replacement of police employee's duty weapon.
- ☐ Do not isolate the involved police employee after physical evidence collection is completed. The police employee should be allowed to move about freely.
- ☐ Act as a conduit for information exchange between the involved police employee and the CIRT. Keep the police employee informed throughout the investigative process as to what is happening and what will happen in the future.
- ☐ Work in concert with the assigned Peer Support Team member in order to accomplish peer support responsibilities (see Peer Support Team) and protect the police employee and their family from unwanted intrusion.

CRIMINAL INVESTIGATION

Overview of Investigative Responsibilities

Investigations of critical incidents involving police employees often places extraordinary demands upon the individuals and agencies involved. These cases tend to attract considerable interest from segments of the public and from the news media. There will always be questions as to the credibility of critical incident investigations. Therefore, we must ensure the investigation is thorough, professional, and transparent. The CIRT was established to provide a multi-agency approach to these critical investigations and provide this transparency. Agencies should assign their very best personnel to the CIRT. The incident itself is often judged by the quality of the investigation.

In most other criminal investigations, we stop when we find no evidence of a crime. However, in critical incidents, we do not stop the investigation at this point. Instead, we complete a thorough and complete investigation of the entire incident. It is this kind of investigation that enhances law enforcement credibility and public trust, mitigates future civil claims, and promotes the professional integrity of law enforcement. Even though the suspect may be deceased and therefore cannot be charged with a criminal offense, we will still seek to investigate any offense the suspect may have committed. Those investigating a critical incident should understand that every such investigation could be the most important investigation they do for themselves, the police employee, the agency, and the community.

The following critical incident investigative protocol standards are modeled after civilian homicide investigation protocol standards. Revisions have been made to ensure coordination of the various parties and interests involved. The following procedures are intended to standardize the investigative process, aid the District Attorney in the review of such incidents, ensure a quality criminal investigation, and provide clear expectations to involved police employees. Three important goals of the criminal investigation are to:

1. Maximize the accuracy and thoroughness of the investigation,

2. Minimize further trauma to the police employee and his/her family, and

3. Provide a fair and unbiased review of suspect or victim involvement.

It is recognized that each incident is unique; therefore, some variation to the following procedures may be acceptable. To the best of the ability of all involved, the protocols should be adhered to.

INCIDENT COMMANDER RESPONSIBILITIES

Overview

The Incident Commander should establish and maintain an atmosphere, which promotes a comprehensive, fair, and professional investigation of police employee incidents.

Pre-Critical Incident Responsibilities:

- ☐ Formulate adequate policies, procedures, protocols, and inter-agency agreements.
- ☐ Know current policies procedures and protocol standards and act as a resource.
- ☐ Establish a working contact directory of all CIRT members.
- ☐ Establish a call out procedure.
- ☐ Ensure all CIRT personnel receive ongoing critical incident investigation training and are familiar with this protocol.

Police Employee Involved Critical Incident Responsibilities:

1. CIRT notification and call-out

- ☐ Establish phone or direct contact with the patrol supervisor or first uninvolved officer on scene, whoever is more knowledgeable about the current situation. This information exchange is time critical in the efficient deployment of CIRT personnel.
- ☐ CIRT notification call-out

2. Venue determination

- ☐ Consult with the venue agency, involved agency, and the District Attorney prior to commencing an investigation under this protocol to ensure proper venue and to facilitate active collaboration.

3. Conflict of interest

- ☐ Ensure that no assigned CIRT personnel have any conflicts of interest (e.g., involved police employee supervisor, peer support, internal affairs investigator, spouse, etc.).

4. Priority assignments

Some priority assignments will likely preclude some personnel from attending the on-scene briefing and crime scene walk-through.

- ☐ Make needed assignments prior to responding to the scene - assign Team Leader - Investigations and Team Leader- Crime Scene(s).

- ☐ Ensure necessary notifications have been made (e.g., Chain of Command, Involved Agency Liaison, District Attorney, Peer Support Team, PIO, Victim Advocate, Coroner's Investigator).

5. Briefing

The Incident Commander shall coordinate an on-scene briefing with the officer or supervisor in charge, ensuring that CIRT investigators are provided an opportunity to view the scene and obtain all available information so they can effectively complete their individual assignments.

- ☐ The involved police employee's attorney, peer support members, officers representing police officer association interests, and any other representatives of the involved police employee should not attend the briefing.
- ☐ Review patrol supervisor's checklist with patrol supervisor or officer in charge. Address any uncompleted tasks.
- ☐ Assemble necessary personnel for briefing to include: Team Leader- Investigations, Team Leader- Crime Scene(s), CIRT Investigators, District Attorney's office personnel, Coroner Investigator, Internal Affairs Investigator and Involved Agency Liaison.
- ☐ If the involved police employee was ordered at the scene to answer patrol supervisor's public safety and scene management questions, that information should not be disclosed to criminal investigators.

6. Suspect/decedent's family

- ☐ Establish an investigative point-of-contact from the CIRT (a non-involved agency member) for the suspect/decedent's family. This is critical in obtaining necessary background information and greatly minimizes the potential for an adversarial relationship.
- ☐ Do not delay contact or notification. CIRT investigators should accompany the Coroner's Office in any death notification to the decedent's family.
- ☐ Provide factual information. Treat family with care and respect. Consultation with a District Attorney representative should occur before releasing any factual information to a non-investigating person or entity.
- ☐ Provide information about the critical incident process and any review or oversight that may exist.
- ☐ Consider advance notification to the family prior to news releases.
- ☐ Consider scene cleanup after criminal investigation is complete.
- ☐ Consider interim housing, meals, and other appropriate arrangements.
- ☐ Consider a separate walk-through with the family as part of the final survey if

incident occurred on family's property.

7. Crime scene walk-through (investigations and crime scene teams)

- ☐ Determine if the scene allows for a walk-through at this time.
- ☐ Is a warrant required? (Consult with District Attorney personnel.)
- ☐ Does transient physical evidence or a bloody scene preclude a walk-through?
- ☐ Will a walk-through occur under the legal authority of the Coroner's Office as part of the exigency in determining the time of death?

8. Manage and coordinate the investigation

- ☐ Continually assess the situation and assign necessary resources.
- ☐ Ensure timely and effective communication between CIRT members assigned to crime scene, suspect, hospital, witnesses, and the involved police employee.
- ☐ Manage the crime scene (see Crime Scene Management) and investigations (see Investigations Management) in accordance with the standards contained within this protocol.

9. Coordinate with Peer Support Team

The primary objectives of coordinating with the peer support team are: (1) meet the highest standards of incident investigation, and (2) enhance the welfare of involved employees through peer support.

- ☐ If a critical incident group debriefing is deemed appropriate by the involved agency licensed mental health professional, expedite investigative interviews so that involved employees that wish to participate in the debriefing may do so without concern of CIRT investigators.

Contact the involved agency licensed mental health professional peer support team coordinator should any conflict arise between the responsibilities of CIRT investigators and the efforts or goals of the peer support team.

CRIME SCENE MANAGEMENT

Overview

The Incident Commander assigns the Team Lead - Crime Scene(s). This non-involved agency CIRT member is responsible for all crime scene(s) investigations.

The goal is document facts and collect evidence. Active communication to and from investigators assigned to the suspect, crime scene, witnesses or hospital is critical and must be timely. Only with ongoing communication can we locate evidence that might not otherwise be obvious. Interviewing/interrogating investigators have to know if physical evidence is contrary to statements they receive.

Crime Scene

Respond to the scene and aggressively take control of crime scene if it has not already been done. Consider the following:

- ☐ Assign detectives/lab personnel to all potential crime scenes, i.e.: hospital, officer, suspect, vehicles, scene of incident.
- ☐ Assign CIRT personnel to process the involved police employee for evidence (non-involved agency)

Preliminary Investigation

Exigent circumstances may dictate a preliminary viewing of the scene. However, if a reasonable expectation of privacy exists and absent exigency or emergency aid, either consent or a warrant shall be obtained.

For example, a warrant is not needed to enter the scene during a preliminary survey of the area where a deceased person is located. Investigators are accompanying the Coroner into the scene solely for the purpose of determining time of death. Time of death is the exigency. Once the Coroner completes time of death activities, all personnel willleave the scene.

Another exception would be to conduct a sweep for other victims or suspects and/or to protect any transient evidence that might be destroyed if not protected.

1. Preliminary survey purpose

- ☐ Allow Coroner opportunity to determine time of death.
- ☐ Retrieve any evidence of a transient nature. (Think temperature sensitive evidence, weather-related, trap potential telephone call evidence *57 *69.)

- ☐ Determine what the crime scene consists of. What might be evidence? What types of collection procedures are required? What personnel will be needed?
- ☐ Did any security video or personal video capture the incident?

2. Path through the scene

- ☐ A bloody scene may limit the number of people through scene.
- ☐ Use path that first non-involved personnel may have taken if possible.
- ☐ Protect areas that you must walk through (butcher paper). Protect and document any transient evidence that might be altered or destroyed; (e.g., open window with wind/rain blowing in, animals in house, temperature-sensitive items).
- ☐ Choose an alternate path to body if scene is particularly bloody or likelihood that trace evidence might be destroyed/contaminated.
- ☐ Crime scene technician leads procession to body, taking photos and video. Make sure body is photographed prior to any activities by the Coroner.
- ☐ Dictate a narrative description of the current condition of the scene, focusing on conditions that may change prior to processing and/or any disruptions to the scene caused by officers, medical personnel, witnesses, coroner, etc.

3. Crime scene search warrant

- ☐ Include crime scene language in addition to items you are searching for.
- ☐ 8th Judicial District Courts require authorization from District Attorney personnel prior to submission of search warrants.

4. Evaluate crime scene

- ☐ Should scene be expanded? Suspect approach/escape routes protected? Escape route may contain discarded evidence (clothing, gun, etc.).
- ☐ Involved police employee and witness officers may be crime scenes. If still on scene, consider photographing them, GSA collection, inspection of witness officer's firearms, and documentation of firearm status.
- ☐ Evaluate media perimeter. Are crime scene screens needed?
- ☐ Consider multiple crime scenes (e.g., body location vs. assault location, suspect himself, suspect residence, suspect/victim vehicle, arrest location).
- ☐ What could conceivably be considered evidentiary?
- ☐ Has the scene been staged?
- ☐ Has evidence been altered?
- ☐ What is the scene telling you about the behavior of the suspect or victim?
- ☐ What was touched or moved? (By officers, witnesses, victim, suspect, etc.)
- ☐ Did ambulance/fire disturb anything or was lighting changed?
- ☐ What was first officer's path of travel through scene?

5. Body as a separate scene

- ☐ Work in conjunction with the Coroner's office to process the body as a

separate scene.

6. Coordinate with other involved entities

- ☐ Allow Coroner's investigator, District Attorney, and administrative investigators the opportunity to view the crime scene.
- ☐ Ensure evidence collection and processing needs of these agencies are addressed by CIRT crime scene personnel.
- ☐ All evidence collected will be logged into the CIRT Investigations Team Lead's home agency pursuant to that agency's evidence procedures.

7. Outdoor crime scene

- ☐ An outdoor crime scene will be processed at night, if possible, though some tasks may need to be delayed until daylight.
- ☐ Removal of the body and evidence collection associated with the removal is an exception to not processing an outdoor crime scene at night.

8. Crime scene narration

- ☐ Dictate a narrative description of the scene's condition.
- ☐ The narrative will portray for the jury how the scene appeared at the time of the crime.
- ☐ Use a systematic approach. Narrate from general to specific.
- ☐ Consider a narration checklist (lighting, doors, shades, curtains open/closed, doors locked/unlocked, temperature, etc.).

9. Photograph scene

Team Lead - crime scene(s) and the CIRT crime scene investigator(s) should collaborate to ensure all necessary photographs have been taken.

- ☐ Consider coordinating the photo marker number with evidence number (e.g., photo marker #22 of a bullet casing should be logged as "officer #-22" and an overall photo detailing the relationship of individual markers to each other.
- ☐ Perspective photographs: photos that detail the visual perspective of the officer, suspect and relevant witnesses.
- ☐ Aerial photographs.
- ☐ Consider digital photos and video due to their immediate availability to investigators and the coroner at autopsy. If retakes are necessary, they can occur prior to scene release.
- ☐ Complete 360-degree scan and diagram, when possible. Other techniques, such as drone video may be beneficial in certain cases.

10. Sketch scene

- ☐ Consider utilization of City or County engineering personnel for a professional sketch, especially for outdoor scenes.

11. Bullet trajectory

- ☐ Consider photographs (aerial “birds’ eye" view) of reconstructed trajectories.
- ☐ Consider backdrop photos/video as it concerns down range projectiles.

12. Final survey

- ☐ Review crime scene from beginning to end.
- ☐ Have all possibilities of what the evidence is telling us been considered?
- ☐ Is all the evidence properly documented?
- ☐ Have we examined all possible hiding places?
- ☐ Discuss those issues we want the coroner to explore at the autopsy.
- ☐ Provide the opportunity for involved officer to conduct a walk-through of the scene prior to its release.
- ☐ Ensure that the final survey is discussed with all personnel involved, including District Attorney personnel, Coroner, and administrative investigator.
- ☐ Make sure all necessary photographs (e.g., aerial, witness, and officer perspective) have been taken.
- ☐ Consider holding scene until after autopsy in case an evidentiary issue arises during the autopsy.
- ☐ Access to law enforcement management of police employee involved.
- ☐ Consider providing a walk-through of the scene to decedent's family, especially if incident occurred on their property.

13. Release of scene

- ☐ Decision to formally release scene is made only after it is discussed with everyone involved.
- ☐ Consider clean up issues. Make arrangements for blood cleanup. Do not leave blood, as it can appear insensitive to decedent's family.

14. Autopsy

It is essential that we make connections between evidence found at the scene and evidence discovered at autopsy. The Coroner and investigator should be able to verify each other's findings.

- ☐ CIRT Investigators assigned to the crime scene should also be assigned to the autopsy. Investigators must know the scene to know what is important at the autopsy.
- ☐ Bring pertinent evidence to autopsy (e.g., shooting victim's clothing).
- ☐ Consider bringing relevant crime scene photographs.
- ☐ Consider using gunshot wound markers (see attached) when the victim has sustained numerous gunshots. Placing marker keys at wound locations and photographing them can simplify documenting all entry, exit, penetrating, perforating and re-entry gunshot wounds.

HOSPITAL SCENE - CIRT CRIME SCENE INVESTIGATORS

Overview

Coordinate with patrol officers already on scene. If both the police employee and the suspect have been transported, consult with hospital authorities, and attempt to establish separate waiting rooms for the respective families. Control the scene and focus on priorities. Determine if additional staffing is required.

1. Hospitalized suspect/victim/police employee as a crime scene

- ☐ Safeguard and maintain chain of custody of the clothing of suspect and victim (e.g., clothing isn't thrown in one bag) and any other evidentiary items. The shirt is often the most important piece of evidence in a shooting.
- ☐ Work with medical staff and complete a GSR test on non-police employee if not already completed.
- ☐ Accompany suspect/victim into surgery to document injury and/or wounds and take custody of evidence.
- ☐ If suspect/victim is DOA, notify Coroner and work in concert with Coroner prior to any removal of evidence from body.
- ☐ Ensure Coroner has opportunity to view crime scene if suspect/victim dies at hospital.
- ☐ Note entry and exit on body diagram and any powder tattooing.
- ☐ Are projectiles still in body? Obtain x-ray so CST has an idea of how many projectiles to account for.
- ☐ Attempt to get wound photographed prior to surgery or any cleaning. Consider use of patrol CSI officers.
- ☐ Note location of blunt trauma on body and possible item that caused injury.
- ☐ Intoxicant testing: Per legal requirements consider obtaining samples for intoxicant testing (blood for drug screens; alcohol screen requires three samples separated by time).
- ☐ Serology: obtain **pre-transfused blood** per legal requirements.
- ☐ Obtain applicable medical releases.
- ☐ A release of medical records can be revoked by a suspect. Therefore, the investigators should attempt to execute the release as soon as possible and document the date and time that the records were obtained.

2. Medical personnel interviews

- ☐ Obtain medical opinion on prognosis of suspect/victim's condition and type and severity of suspect/victim's injuries.
- ☐ Determine if evidence was removed from suspect/victim (bullets, etc.) and ensure collection.
- ☐ Was a sample of **pre-transfused blood** taken?
- ☐ Any statements made by suspect/victim? Ideally, the patrol officer should ride in ambulance to hospital to obtain any statements or dying declarations.
- ☐ Medical opinion on type and severity of suspect/victim's injuries.

- ☐ Interview fire and ambulance personnel as to what they saw or heard at scene, including any statements made by suspect/victim. Determine path they took through scene and anything they may have moved, altered, or destroyed.
- ☐ Consider that ambulances and medical personnel often dispatch to their next call early in a CIRT investigation. Evidence collection and interviews may need to be prioritized to prevent loss.

3. Suspect/victim interview

- ☐ Work with medical staff and attempt to interview suspect/victim. Communicate information to other detective teams.
- ☐ Dying declaration: **Make sure you record!** Individual must be conscious of approaching death with no hope of recovery. Declaration must be voluntary, and suspect/victim must be of sound mind. Questions asked of suspect/victim cannot be overbearing or leading.

4. Relatives and Friends

Many times, there will be too many people and too many tasks to perform for one person. Obtain additional resources.

- ☐ This is an opportune time to identify potential witnesses and family members.
- ☐ Background information on victim/suspect is essential.

INVOLVED POLICE EMPLOYEE AS A CRIME SCENE (NON-HOSPITALIZED)

A supervisor or his designee should have transferred the involved police employee to a pre-designated location. The CIRT Crime Scene member assigned should process the police employee at this location for the following physical evidence:

- ☐ Provide the police employee an opportunity to submit to a voluntary blood draw and/or a urine sample.
- ☐ Document and photograph the police employee in their police attire/identification.
- ☐ Document and photograph any injuries to the police employee.
- ☐ If the involved employee fired their handgun, or there is a question surrounding the use of the handgun, retrieve entire gun belt leaving weapon in the holster when replacement weapon is available.
- ☐ Do not clear or open the weapon. Do not inspect magazine capacity unless specifically authorized by the CIRT Team Lead - Crime Scene.
- ☐ Examine clothing for trace evidence and collect appropriate items.
- ☐ If it is reasonable to believe that the police employee's uniform will contain relevant trace evidence, the uniform should be collected. A replacement uniform or other appropriate attire should be made available to the police employee. Keep in mind that the police employee will be conducting a video recorded interview, which will serve as his/her report, and the police employee should be professionally attired for that interview.
- ☐ Intoxicant tests: If the criminal investigation determines a police employee's state of sobriety is relevant to the criminal investigation, they shall proceed as they would with any civilian subject. Results obtained by criminal investigators are available to administrative investigators.

SUSPECT AS A CRIME SCENE
(NON-HOSPITALIZED)

Generally, evidence from an in-custody suspect will be collected by a CIRT member assigned to the Crime Scene team prior to interview. Investigators must balance the immediate collection of evidence against the chilling effect it might have on the suspect's willingness to be interviewed. Consider collecting the following:

- ☐ GSR
- ☐ Trace evidence
- ☐ Suspect's clothing, footwear, etc.
- ☐ Photograph suspect, clothing, wounds, and any trace evidence that might be present.
- ☐ Absent consent, collection of blood or other invasive procedures may require a court order. Consult with the District Attorney's Office.
- ☐ Transient evidence such as blood transfers or fingernail scrapings should be collected due to exigent circumstances. However, control samples from the suspect, even though he is in custody, may require a court order absent exigent circumstance. Consult with the District Attorney's Office before obtaining in-custody controls such head hair, pubic hair, and saliva.
- ☐ Test for intoxicants, if applicable, via consent or warrant.

MANAGING THE INVESTIGATION

Overview

The key to a successful investigation is how well developing information is communicated to those that need it. Crime Scene Investigators can do a better job if they are aware of what all the witnesses and suspects are saying. Obviously, investigators can do a better job if they are frequently updated about the crime scene.

The Incident Commander assigns the Team Lead - Investigations. This non-involved agency CIRT member is responsible for all follow up investigation, including interviews.

1. Assignments

The following personnel assignments should be made:

- ☐ Conduct a thorough high-quality investigation.
- ☐ Conduct critical witness interviews based upon briefing information.
- ☐ Canvass for potential witnesses.
- ☐ Write applicable search warrant(s).
- ☐ Suspect follow-up or interrogation.
- ☐ Officer interviews: Generally, investigators assigned to involved police employee interviews can complete other assignments prior to involved officer interviews, as witness interviews and crime scene familiarity must occur first. When assigning investigators to interview the involved police employee, consider pre-interview assignments, which balance the need for familiarity against the need to conduct expedient interviews.
- ☐ All critical interviews, including the involved police employee interview, must be conducted by a non-involved agency CIRT member.

2. Canvass

This may be the most important part of a CIRT investigation. Eyewitnesses may provide critical information as to police employee and suspect actions.

- ☐ Consider creating a canvass questionnaire for consistency.
- ☐ Give priority to hostile witnesses.
- ☐ No witness should be quoted in the media who has not already been interviewed.
- ☐ Document who was interviewed as well as who wasn't. Conduct subsequent canvasses as necessary until all potential witnesses have been contacted.
- ☐ Identify and document witnesses who claim to have no knowledge of the incident

3. Witness interviews

- ☐ Consider accelerating interviews of hostile witnesses.

- ☐ Obtain preliminary information from on-scene witnesses prior to crime scene walk-through. Detailed interviews are conducted at the station.
- ☐ Obtain a written statement in addition to a focused detailed interview.
- ☐ Video record critical interviews. Video record transient witnesses and those that might recant later.
- ☐ Consider walk-through video of witness when appropriate.
- ☐ Call out Victim Services.

4. <u>Involved Police Employee interview</u>

Post-incident interviews are voluntary. Prior to the interview, the police employee will have had an opportunity for a psychological break from the incident and the ability to talk with his or her attorney and any peer support. Involved and witness employee interviews should take place within 48 hours. If an employee elects to interview immediately after the incident, the CIRT commander will make every effort to minimize the delay between the incident and the interview. However, a delay of 4 - 5 hours between incident and interview is not uncommon in this circumstance. An employee may also choose to delay the interview for one or two sleep cycles (up to 48 hours). The CIRT commander should ensure that interviews are scheduled in a timely manner. Barring unusual and extenuating circumstances, if there is a delay by the involved officer beyond 48 hours, the CIRT investigation shall proceed and may be presented to the District Attorney for review without the involved officer's statement.

Involved police employee interviews are usually the last to be done, as interviewers need to know as much as possible about the incident in order for questioning to be as comprehensive and meaningful as possible. Assume this will be the only interview you will ever have with the involved police employee.

- ☐ Involved police employees shall not review video or audio recordings of the event prior to their interview (for example: dash camera video, surveillance video, body-mounted camera audio or video). Legal Counsel for involved employees will also not be provided the opportunity to review evidence prior to the employee interview. However, involved officers will be given the opportunity to review relevant video after they have completed their video narrative of the event. A follow-up video interview, after video viewing, is authorized.
- ☐ Audio and video tape the police employee interviews. This will serve as their police report.
- ☐ Avoid conducting the interview in rooms used for interviewing suspects.
- ☐ Coordinate delivery of replacement uniform or personal clothing if needed.
- ☐ Limit those present during the interview. Presence should be limited to District Attorney personnel, the non-involved agency CIRT criminal investigator, the officer, and the employee's legal counsel.
- ☐ Remind all parties that have contact with involved police employee (e.g., legal counsel, family members, investigators) not to relay information between other witnesses being interviewed.
- ☐ District Attorney personnel may be present in a monitoring room and should be

consulted as to additional questions for the involved police employee.

- ☐ The involved agency's liaison may be present in a monitoring room.
- ☐ Administrative investigators will have an opportunity prior to the interview to brief the criminal investigator conducting the interview with respect to concurrent administrative issues that need to be addressed.
- ☐ Administrative investigators will observe the interview from the monitoring room and have the ability to meet with the criminal investigator during interview breaks to resolve any concurrent administrative issues not yet addressed. The goal is to conduct one interview that satisfies both criminal and administrative concerns.
- ☐ Consider use of a Police Employee Advisement form and interview checklist (see Appendix).
- ☐ Investigator conducting the interview should be thoroughly familiar with the crime scene, witness interviews and dispatch recordings.
- ☐ Involved police employee should narrate the incident from beginning to end without interruption. A question-and-answer format follows the free narrative.
- ☐ Be cognizant of critical-incident stress reactions, including time and space distortions, confusion, hearing, visual distortion, and emotional impairment, including shock. (*See Addenda*)
- ☐ To avoid a second interview, know the unresolved issues of the case and make every effort to resolve these issues with the police employee.
- ☐ Police employees frequently remember details of the incident in the days after the incident. Within seventy-two hours, voluntarily re-contact the involved police employee and inquire about further details, address any discrepancies, and attempt to resolve any conflict. Any additional details should be documented in the investigator's report.
- ☐ At the conclusion of the interview, the police employee should be provided a non-involved agency CIRT criminal investigative point-of-contact and be referred to an involved agency liaison.

5. Video walk-through

- ☐ Walk-through should occur within a reasonable time (up to 72 hours) of the incident and is dependent on ensuring there are no cross-contamination issues present.
- ☐ For purposes of the criminal investigation, the walk-through is completely voluntary, as is the videotaping of the walk-through. The police employee usually consults with the Peer Support Team licensed mental health professional and his/her attorney prior to consenting to the walk-through.

- ☐ Purpose of walk-through:

    - Opportunity for the police employee to recount the incident (unrehearsed) from his/her perspective while at the crime scene.
    - To supplement, confirm and clarify interview information.
    - To resolve conflicts, confusion, and any inconsistencies.
    - The walk-through should not be used to reenact the incident.

- ☐ At a minimum, ensure district attorney and administrative investigators are present, in addition to necessary non-involved agency CIRT criminal investigators and non-involved agency CIRT crime scene personnel.

INVESTIGATIVE SUMMARY REPORT FORMAT

Purpose

The investigative summary report should provide an accurate and thorough summary of the incident to the District Attorney. This comprehensive summary is a critical component to the District Attorney's review and subsequent determination as to whether anyone involved in the incident committed a crime. A detailed, comprehensive, and complete summary is needed for the District Attorney to return a timely decision letter.

The incident commander is responsible for compiling all necessary information to be provided to the District Attorney's office. This should include: a list of all agency case report numbers, copies of all evidence sheets, digital media, all reports and supplemental reports and an investigative summary.

The Investigative Summary report shall consist of the following sections:

- ☐ Final summary which provides a synopsis of the incident.
- ☐ Law enforcement officers/agencies involved.
- ☐ Involved suspect including a summary of criminal history.
- ☐ Segment for each involved police employee containing all relevant information.
- ☐ Summary or attachment of relevant computer-aided dispatch logs of the incident.
- ☐ Summary or attachment of relevant incident radio log information/chronology.
- ☐ Crime scene description, which includes preliminary crime scene diagram.
- ☐ Scientific analysis completed or pending.
- ☐ Segment which includes description of suspect and involved officer weapons.
- ☐ Summary of relevant post-mortem examination details and evidence.
- ☐ Listing of injuries sustained by suspect, law enforcement, and/ or civilians.
- ☐ Detailed summary of involved police employees' statements.
- ☐ Summary of relevant details from witness officers.
- ☐ Summary of relevant details from civilian witnesses.
- ☐ Any relevant attachments (e.g., photographs, audio/video recordings).
- ☐ A copy of the current CIRT policy and procedure.

DISTRICT ATTORNEY RESPONSIBILITIES

Overview

The District Attorney is a critical component to the investigative integrity of a critical incident and is, therefore, intricately involved in all phases of the investigation. The District Attorney has independent investigatory power and responsibilities and may conduct an investigation apart from the CIRT investigation. It is the intent of this protocol that the District Attorney be an active participant in the investigation in conjunction with the CIRT investigators. The District Attorney shall designate specific Chief Deputy District Attorneys and investigators who are assigned to the investigation of critical incidents.

The role of the District Attorney and their designated personnel includes, but is not limited to the following:

- ☐ Monitoring - and presence at - critical phases of the investigatory process, to include the briefing, preliminary survey, crime scene walk-through, witness interviews, presence and participation during involved police employee interview, warrant review, crime scene processing, autopsy, hospital, officer walk-through and all investigatory briefings.

- ☐ Access to all evidence.

- ☐ To advise criminal investigators regarding legal issues associated with the investigation.

- ☐ Prosecution of any suspect regarding the commission of any crime during the course of events which led up to and included the critical incident.

Within five business days, or as soon as practical, after the receipt of the investigative summary report, including the completion of any additional investigation the District Attorney requests, the District Attorney shall determine whether any person committed a crime during the course of the critical incident. If no criminal liability exists with respect to the officer(s) involved, the District Attorney shall disseminate a decision letter to the chief law enforcement officer of the venue and involved agencies.

ADMINISTRATIVE INVESTIGATION RESPONSIBILITIES (Subject to Individualization by Agency)

Format

The criminal and administrative investigations are purposely separated to ensure that police employees and their legal representatives know precisely what their rights and responsibilities are under each different investigative format. The criminal investigation has investigative priority over the administrative investigation and is the umbrella under which the administrative investigation takes place. This investigative structure ensures separation of the two investigative formats and provides for the integration of the various other legitimate interests (District Attorney, Peer Support Team, Citizen Review Board, CIRT Investigation, Administrative Investigation, and Media).

CIRT criminal investigators may share information with administrative investigation personnel. Absent the limited purposes allowed by law, administrative investigators shall not, by any means, share information that results from the administrative investigation.

Purpose

The administrative investigation is another deliberate layer of review of critical incidents, specific to the involved agencies administrative purposes. As such, the administrative investigator is integrated into the investigation through the monitoring of major phases of the criminal investigation. Such integration is designed to minimize secondary trauma to the involved police employee by not conducting an administrative investigation that is duplicative of the criminal investigation.

It is the responsibility of the administrative investigator to anticipate administrative issues during all phases of the criminal investigation; communicate these issues, when applicable, to CIRT criminal investigators and ensure they are addressed under the umbrella of the criminal investigation.

At a minimum, the administrative investigator should monitor and dialogue with CIRT criminal investigators on the following primary criminal investigative stages:

1. Briefing

- ☐ Consult with incident commander or team lead(s) on any anticipated administrative issues.

2. Civilian witness interviews

☐ Monitor critical interviews, obtain briefing on less critical interviews and prioritize hostile witness interviews.

3. Officer witness interviews

☐ Prioritize monitoring interviews with non-involved witness officers.

4. Crime scene walk-through

☐ Determine crime scene issues that are pertinent to involved agency's purposes (policy and procedures, training, tactics).

5. Crime scene processing

☐ Review evidence collection and crime scene photography with CIRT team lead - crime scene to ensure any associated administrative issues are considered.
☐ Consider witness and police employee perspective photographs.

6. Hospital

☐ Respond to hospital, if appropriate, for administrative concerns.

7. Legal counsel introduction

☐ Coordinate with non-involved agency CIRT Team -investigations interviewer and contact the involved police employee and their legal representative to clarify the following points:

- Voluntary interview
- Single interview for criminal and administrative purposes is goal
- Administrative Investigator will not participate but will monitor
- Discuss video walk-through procedures/parameters.

8. Police Employee interview

☐ Consult with non-involved agency CIRT Team investigator conducting the interview prior to the interview and during pre-designated breaks.

9. Autopsy

☐ Attend if pertinent to administrative concerns.

10. Final survey

☐ Ensure all administrative issues pertinent to the crime scene have been addressed prior to release of scene.

11. Walk-through

- ☐ Address administrative issues with CIRT criminal investigators prior to walk-through. Monitor but do not ask questions.

12. Follow-up

- ☐ Monitor any pertinent follow up interviews with police employees or witnesses.

Other Administrative Responsibilities:

1. Required Intoxicant Testing

- ☐ Intoxicant testing compelled by the involved agency's policy will be conducted by administrative investigators after specifically advising the officer such testing is separate and apart from the criminal investigation.

2. Criminal Reports

- ☐ Retrieve completed report from CIRT incident commander and begin organizing administrative investigation file.

3. Scientific Analysis

- ☐ Continue communication with CIRT criminal investigators on pending scientific analysis and/or other outstanding issues.

4. Follow-up Investigation

- ☐ Conduct further investigation on any issues solely of administrative concern.

5. Review Process

- ☐ If required, present administrative investigation file to internal Use of Force Review Board and appropriate command personnel.
- ☐ Coordinate with CIRT criminal investigators as it concerns case presentation to Shooting review Board.
- ☐ If required, prepare and present administrative investigation to Citizen Review Board.

MEDIA

Overview

Officer-involved critical incidents are high profile events and law enforcement can often create unwarranted controversy by refusing to provide facts of the incident. By impeding the community's opportunity to learn the truth, the agency can make an incident appear suspicious when in fact; it was consistent with law and policy. Public confidence is eroded when the report is said to be confidential. The critical incident investigation is intended to be public at some point. The public's right-to-know must be considered against the requirements of the investigation, the District Attorney's ethical obligations under Colorado Rules of Professional Conduct (RPC) 3.6 & 3.8 (see addendum), and with the rights of involved individuals. It is important to note that premature release of information in some instances may jeopardize the fairness of the proceedings for any person who may be charged in connection with the incident.

Public disclosure becomes more complicated when a criminal investigation (e.g., attempted murder or assault on a police officer) on a living suspect is collateral to the deadly force investigation. Sealed affidavits and pre-trial publicity issues under RPC 3.6 & 3.8, may preclude the release of information. Since there is a possibility that *any* critical incident investigation may lead to criminal charges, the same precautions should still be taken when it is determined that no concurrent criminal investigation of a non-peace officer is necessary. In all critical incident investigations, the parties (District Attorney, Public Information Officers, CIRT Investigators, and Command Officers) must consult and coordinate with each other prior to the release of factual information to the public or media that is not excepted under RPC 3.6(b). Digital evidence, such as body worn camera video, has a heightened risk to influence the course of an ongoing investigation and violate the RPC. Therefore, with the exception of legal compliance with C.R.S. 24-31-902 "Incident Recordings – Release," involved agencies shall prioritize consultation and agreement among CIRT Commanders prior to release.

Handling and release of records after the completion of a CIRT shall be governed by each agency's normal policies and as outlined in existing MOUs between the District Attorney's Office and each agency.

Venue Agency responsibilities

1. The CIRT team incident commander will designate a Public Information Officer (PIO) for each critical incident. The incident commander and CIRT PIO will coordinate with the PIO's from the venue agency, involved agencies, and District Attorney's office.

Involved agency responsibilities

1. Irrespective of jurisdiction, the involved agency is solely responsible for

any release of the police employee's name, photograph, biographical information, agency assignment, years of service, and other information not related to the facts of the investigation.
2. As a matter of mutual courtesy, the involved and venue agency will confer prior to the release of any public information.

Public information officer responsibilities

1. Ensure that agencies and individuals who are not well informed and not intimately involved with the investigation's results and progress should not make statements to the media.
2. Prepare press releases and coordinate such releases with other agencies involved.
3. Consult with District Attorney's Office designee regarding compliance with RPC 3.6 and 3.8. DA Office PIO will facilitate release of written statement under joint CIRT authority.
4. Consider the police employee, their family, and the family of decedent's interests when preparing media releases.
5. Consider notification to the police employee and/or decedent's family prior to any media release.
6. Consider continued updates on the course of the investigation, especially for investigations of longer duration. While additional facts cannot always be shared, the public has an interest in keeping apprised of the CIRT's progress.
7. Consider responses to evidence which has been made public by non-law enforcement sources such as citizen cell phone video.

VICTIM ADVOCATE RESPONSE

Overview:

Victim advocacy for surviving victims, family and witnesses, is a component of a critical incident that will be provided during an investigation. The CIRT will utilize law enforcement-based victim advocate response teams, and when needed, the 8th Judicial District Attorney's Office Victim Witness team, to provide victim assistance for incidents that fall within its purview.

When a critical incident occurs, the CIRT will mobilize victim advocates from law enforcement agencies and/or the District Attorney's Office to provide crisis intervention services to victims, family, and witnesses, and to provide appropriate information on available community resources.

Responsibilities:

Victim Services Supervisors will be notified via CIRT page to respond to the dedicated location. The designated "Lead Victim Advocate" will be a member of

the investigating agency assigned to the CIRT call out. The lead victim advocate will work with other law enforcement victim advocate teams to determine what individuals need to be contacted. These people will be victims, victim family members and witnesses to the event. If the lead investigation unit does not have a victim advocate available, the CIRT Commander will assign victim response to a victim advocacy program from a partner agency.

The timing of contacting the victims, family members, or witnesses must be coordinated with the Lead Investigative Team to ensure the investigative interviews are not held up by the advocacy role.

Victim advocates will provide updates to the Lead Victim Advocate as to victim/witness contact, what has been done, and what still needs to be accomplished. Follow up with victims/witnesses will be coordinated through the Lead Victim Advocate and participating victim advocates.

Victim Services Supervisors and their designee victim advocates will participate in CIRT case debriefings in order to share any victim/witness related information required by the CIRT members.

Victim advocates WILL NOT not be utilized to speak with any involved officer or employee. This will be the responsibility of the Peer Support Teams. If the nature of the CIRT call encompasses any Victim Rights Amendment crime, victim advocates will provide officers or employees information on their VRA rights, to include the ability to apply for Victim Compensation. This shall be done at a later time, rather than during the middle of the CIRT investigation, to avoid confusion of roles and in recognition that discussions during the course of the investigation will carry discovery obligations.

PEER SUPPORT TEAM

Overview

For agencies that maintain a peer support team, the team is part of a comprehensive response to a critical incident. The Peer Support Team is comprised of agency-appointed personnel trained in peer support. Peer support team members function under the written policy and operational guidelines of their agency.

The goal of the peer support team is to minimize the likelihood of secondary injury and traumatization of the police employee and his/her family by providing best-practices peer support. "Secondary injury" is traumatization that occurs as the result of the police employee being treated poorly following a critical incident.

For agencies that do not maintain a peer support team, peer support may be provided by other-agency peer support teams upon request.

Mission

The peer support mission is to provide the police employee and family members with emotional and psychological support, stress management, and education. In addition, peer support team members help with trauma recovery, coping strategies to deal with the investigative process as it unfolds, issues surrounding the police employee's response to colleagues and the media, and the facilitation of the police employee's return to duty. The interactions of persons engaged with members of the peer support team are confidential within the limits prescribed by agency policy and state statutes.

Recommendations for Support

It is recommended that peer support teams:

- ☐ Respond to the location where the police employee is sequestered and coordinate with the gatekeeper to best meet the needs of the employee.

- ☐ Assist the police employee by providing support to address any identified or perceived immediate emotional or physical needs.

- ☐ Help the police employee to dissipate any heightened emotional and physical arousal. This is accomplished by assisting the employee to process the intense emotional and physical reactions that are sometimes associated with critical incidents. Utilize the "walk and talk" when appropriate.

- ☐ Identify any signs of a complicated response which might indicate a need for assessment or intervention beyond peer support.

- ☐ Facilitate notification of the police employee's family if not previously accomplished by the officer. This includes assisting those responsible for family notification in the event the employee is incapacitated.

- ☐ Assist the police employee and his/her family as needed. This includes when necessary, obtaining a change of clothing, transporting spouses and other requested family members to the employee's secured location, and greeting the family when they arrive at the location.

- ☐ Remind the police employee to consider appropriate social media privacy protection.

- ☐ Prepare the police employee for the investigative process. This includes discussing the sometimes extended wait for the incident investigative interview and the psychological pros and cons of postponing the interview, having equipment and clothing taken for evidence, and helping the employee prepare for any investigative walk through of the incident scene.

- ☐ Assist the police employee by discussing the issues relevant to viewing bodycam and/or dash cam recordings if viewing is made available.

- ☐ Minimize the likelihood of additional police employee stress and secondary injury following the investigative interview by facilitating appropriate updates.

- ☐ Prepare a follow up plan to be initiated immediately upon the police employee's release from the immediate investigation. Recommended plan inclusions: a scheduled meeting with the agency licensed mental health professional, follow up meetings for continued peer support, contact phone numbers for peer support team members and the department licensed mental health professional, and information for family members about who to call in the event they have any questions or become concerned about the employee.

- ☐ Encourage the department's public information personnel to advise the police employee of any planned immediate or future press releases, including what information will be made public.

- ☐ Work to ensure that all agency personnel that have been directly and indirectly involved are contacted, engaged, and offered peer support, with special attention to dispatchers and indirectly involved officers.

- ☐ Assist the police employee in any other way consistent with the mission and goals of the peer support team.

- ☐ Assist the agency mental health professional as needed to prepare for an incident debriefing, engage other support interventions, and prepare the police employee for return to duty. (see "Return to Duty")

Peer Support Information

- ☐ Peer support serves a supportive function and does not impede the investigative process.

- ☐ Peer support team members that were directly involved in or witnessed the incident must not function or be utilized in a peer support role.

- ☐ In the absence of exigent circumstances, peer support team members, when functioning in their peer support role must not be assigned any investigative or evidentiary responsibilities.

- ☐ Peer support team members may be assigned gatekeeper responsibilities only when no other viable option exists and only when there are other peer support team members available to fulfill the responsibilities specified for the team.

- ☐ The agency licensed mental health professional, or a peer support team member designated by the agency licensed mental health professional should coordinate the timing of any critical incident debriefing with CIRT investigators so that the efficacy of the debriefing and the integrity of the investigation are not compromised.

ADDENDA

Eighth Judicial District's
Multi-Agency Critical Incident Response Team Protocol

It is the consensus of the CEOs of the law enforcement agencies in the Eighth Judicial District that a team of highly trained and skilled investigators, comprised of personnel from participating law enforcement agencies, and the District Attorney's Office, be formed to investigate critical incidents as defined in the Eighth Judicial District's *Critical Incident Protocol.* This team shall be designated as the Critical Incident Response Team (CIRT) and will conduct their investigation pursuant to the Eighth Judicial District's *Critical Incident Protocol.*

For the purpose of maintaining transparency and to reduce conflict of interest, CIRT members from the involved agency shall not be used for critical duties (Incident Commander, Team Leaders, Involved Officer interview) related to the CIRT investigation. To the extent practicable, use of members of the involved agency should be minimized for other investigative duties as well.

CIRT OBJECTIVE: To conduct a thorough investigation of the highest quality so that an informed and unbiased decision can be made by the Larimer County District Attorney's Office as to whether or not any person committed a crime during the course of events which led up to and included the critical incident.

INVESTIGATIVE COSTS/EQUIPMENT: All normal personnel costs related to the investigation shall be the responsibility of the agencies providing members to the team. CIRT members, while responding to a "call out", will be deemed to be on duty. The venue agency will provide all reasonable and necessary equipment and supplies required by the CIRT to conduct an investigation. Prior to incurring extraordinary costs associated with obtaining specialized equipment or testing, the Incident Commander will consult with the CEOs of the Venue and Involved agencies

DEPARTMENT'S INTERNAL ADMINISTRATIVE INVESTIGATION: The employer agency's administrative "internal" investigation will be conducted independent of the CIRT investigation. The CIRT investigation will have priority over the involved agency's internal process.

ASSIGNED PERSONNEL: The determining factor of being assigned to CIRT shall not be based on an individual's current assignment within their respective departments. Consideration will be given to the individual's desire, aptitude, and their ability to demonstrate the necessary skills to perform effectively with this team.

Team Commanders: Officers with command rank (Lieutenant, equivalent or

above), will be appointed to serve as Team Commanders. A minimum of three Team Commanders, from three different law enforcement agencies in the Eighth Judicial District, shall be assigned to the CIRT. Each Team Commander shall designate a back-up command rank individual who will serve as their replacement if needed. It is incumbent upon the group of Team Commanders to work together and communicate with each other for the betterment of the team.

All the Team Commanders on the CIRT will be responsible for maintaining the CIRT roster and ensure that accurate call-out lists are available to the District Attorney's Office and all law enforcement agencies within the Eighth Judicial District. All agencies that participate in CIRT will be equally responsible to see that the list of their respective personnel is accurate. If there are changes to the list, a representative from the agency must make immediate notification to the Team Commanders.

The Team Commanders will be responsible for setting up meetings/training for those assigned to the CIRT team. The training can consist of reviewing past shootings, debriefing past call outs to discuss procedures, guest speakers from other departments who have handled recent officer involved shootings, legal updates from the DA's Office or formal instruction classes designed to enhance skills on these types of investigations. The Team Commanders 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. Team Commanders are responsible for ensuring that the team members from their respective agencies attend and are well trained in critical incident investigation and pursue ongoing training opportunities.

Team Commanders will be responsible for identifying members of their agency to act as Team Leaders and detectives.

Incident Commander: On a rotating annual basis, one of the three Team Commanders will serve as the CIRT's Incident Commander for the year. If the Incident Commander is unavailable, their designee shall act in their stead. This does not preclude the opportunity for multiple Team Commanders to respond to the same critical incident. Other Team Commanders that elect to respond can be utilized for various tasks. In most cases they will provide support and utilize this as a training opportunity to enhance cohesiveness and consistency as to how these investigations will be conducted. In the event the Incident Commander is employed by the involved agency, one of the other Team Commanders will be designated as the Incident Commander for that particular incident.

The Incident Commander, or their designee, is responsible for directing the investigation of the critical incident pursuant to the Eighth Judicial District's *Officer-Involved Incident Protocol.* The District Attorney will resolve any conflicts that might arise regarding how the investigation should proceed.

The Incident Commander or their designee shall establish procedures for the call out of the CIRT team. The team should be assembled as soon as possible at a location or locations as determined by the Incident Commander. After the assembly of the team, a briefing will be conducted concerning the incident. The involved agency shall identify an employee who was not directly involved in the critical incident, to provide an initial briefing to the CIRT Team.

At the conclusion of a CIRT call out, the Incident Commander will organize a team debriefing to identify any training issues that should be addressed and acknowledge team successes.

Team Leaders: Team Leaders will primarily be of the rank of sergeant or above; however, exceptions can be made by the Team Commanders (e.g., no sergeants are available, multiple shootings in a short amount of time, multiple scenes, etc.). The Incident Commander will identify one Team Leader who will have primary oversight for the investigation and one Team Leader who will have primary oversight of the crime scene(s).

Team Members: All law enforcement agencies in the Eighth Judicial District are eligible to assign personnel to the CIRT. The Team Commanders will determine the size of the CIRT.

Involved Agency Liaison: Agencies within the county may wish to assign members as liaisons to the team. The Team Commanders will notify these liaisons of upcoming training and issues facing the team. The liaisons will typically be utilized when their respective agency is involved in an incident in which the team is deployed, and the agency is not represented by a Team Commander.

When the CIRT is activated and the involved agency does not have a Team Commander available, they will provide a command officer to act as a liaison to the Incident Commander. The Incident Commander and involved agency liaison will be clearly identified to all team members and the District Attorney's Office at the initiation of the investigation or as soon as possible thereafter.

ACTIVATION PROCEDURES: The Eighth Judicial District's CIRT will be activated immediately and automatically upon the occurrence of an officer-involved incident. If there is any question as to whether a particular incident meets the definition of an officer-involved incident, the employer or venue agency shall contact the District Attorney, or in their absence, their designated personnel who will make the decision. Upon the occurrence of a critical incident, the involved agency shall immediately initiate the call out of the CIRT and notify the District Attorney's Office and the appropriate venue agency, if the venue agency is different from the involved agency.

All law enforcement CEOs retain the discretion to activate the CIRT for non-officer-involved incidents in which their personnel were involved.

Each Communications Center should have contact information for the Team Commanders and their team members.

VENUE AGENCY RESPONSIBILITY: The scene of a critical incident will be secured and preserved by the venue agency. Care should be taken to make sure the scene is undisturbed. Other than essential law enforcement information needed to preserve public safety, no information regarding this incident will be discussed until contact is made with and the arrival of a Critical Incident Response Team Commander.

EVIDENCE COLLECTION: CIRT member(s) assigned to evidence collection will oversee and coordinate the evidence collection and packaging. All evidence collected will be logged into Investigative Lead's agency's evidence system pursuant to that agency's procedures as soon as practicable. Under some circumstances, evidence may be logged into another CIRT agency's evidence system after consultation with the CIRT Commander. The CIRT member will prepare a report detailing their independent role in this process and their observations. It is imperative that all evidence collected either by the venue agency personnel immediately following a critical incident, or the lab that responds to process the scene, be consecutively numbered for better tracking.

OFFICER PROCESSING: Whenever possible, the involved officers should be taken to their home agency for processing and interviews. Please refer to the *Critical Incident Protocol* for detailed information regarding officer processing, gatekeeper responsibilities and peer support procedures.

ADDITIONAL INVESTIGATIVE ASSISTANCE: The CIRT may utilize personnel from the involved agency as needed. However, involved agency personnel shall only act under the supervision of a CIRT member.

CRITICAL INCIDENT RESPONSE TEAM MEMBER REPORTS: Reports completed by team members will be typed by the team member's agency. This is to relieve the venue agency of the burden and allow for the transcription of interview recordings, so that the information may be gathered and presented for review as expeditiously as possible. In some cases, alternative arrangements may be made with the approval of the Incident Commander. CIRT members are responsible for delivering all reports to the Incident Commander at a time or date specified by the designated Incident Commander.

INVESTIGATION COMPLETION GOAL: See *Critical Incident Protocol.*

MEDIA/RELATIONS/PUBLIC INFORMATION: See *Critical Incident Protocol.*

ROLE OF THE DISTRICT ATTORNEY: The District Attorney shall be included in the CIRT call out. The District Attorney, the Assistant District Attorney, or a Chief Deputy District Attorney will respond. Additionally, the District Attorney's Chief Investigator, or their designee, may respond and may be included in any aspects of the investigation which would provide assistance to the District Attorney's final review of the incident. In circumstances where the Incident Commander requires additional personnel, they may request to assign District Attorney investigative staff. The District Attorney personnel shall serve as the legal advisor to the CIRT and resolve any team conflicts that may arise during the investigation of a critical incident.

CIRT TEAM REPORT: When the investigation is completed, it will be presented by the CIRT members designated by the Incident Commander to the District Attorney. The Incident Commander is responsible for notifying and scheduling the presentation with the District Attorney and CEO of the employer/venue agency(s). The CEO of the involved agency may request that the Incident Commander make a separate presentation to the involved agency and/or any other review board. No officers directly involved in the incident may attend the DA presentation.

REMOVAL OF OFFICER/COMMANDER: Any team member may be removed upon the recommendation of the Team Commanders and with the approval of the District Attorney. A team member may also be removed by his/her agency's CEO.

DEFINITIONS: See *Critical Incident Protocol.*

COLORADO REVISED STATUTES

Officer-involved shooting investigations, protocols, and reports

§16-2.5-301, C.R.S.

(1) 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.

(2) Each law enforcement agency shall post the protocol on its website or, if it does not have a website, make it publicly available upon request. The protocols required by this section shall be completed and implemented by December 31, 2015.

§20-1-114, C.R.S.

(1) **The district attorney shall, if no criminal charges are filed** following the completion of an investigation pursuant to section 16-2.5-301, C.R.S., **release a report and publicly disclose the report** explaining the district attorney's findings, including the basis for the decision not to charge the officer with any criminal conduct. The district attorney shall post the written report on its website or, if it does not have a website, make it publicly available upon request

(2) If the district attorney refers the matter under investigation to the grand jury, the district attorney shall release a statement at the time the matter is referred to the grand jury disclosing the general purpose of the grand jury's investigation. If no true bill is returned, the grand jury may issue a report pursuant to section 16-5-205.5, C.R.S.

(3) All disclosures required by this section remain subject to the criminal justice records act.

Colorado Rules of Professional Responsibility

Rule 3.6. - Trial Publicity

(a) A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the lawyer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.

(b) Notwithstanding paragraph (a), a lawyer may state:

(1) The claim, offense, or defense involved and, except when prohibited by law, the identity of the persons involved;

(2) Information contained in a public record;

(3) That an investigation of a matter is in progress;

(4) The scheduling or result of any step in litigation;

(5) A request for assistance in obtaining evidence and information necessary thereto;

(6) A warning of danger concerning the behavior of a person involved, when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest; and

(7) In a criminal case, in addition to subparagraphs (1) through (6):
(i) The identity, residence, occupation, and family status of the accused;

(ii) If the accused has not been apprehended, information necessary to aid in apprehension of that person;

(iii) The fact, time, and place of arrest; and

(iv) The identity of investigating and arresting officers or agencies and the length of the investigation.

(c) Notwithstanding paragraph (a), a lawyer may make a statement that a reasonable lawyer would believe is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the lawyer or the lawyer's client. A statement made pursuant to this paragraph shall be limited to such information as is necessary to mitigate the recent adverse publicity.

(d) No lawyer associated in a firm or government agency with a lawyer subject to paragraph (a) shall make a statement prohibited by paragraph (a).

Comment

It is difficult to strike a balance between protecting the right to a fair trial and safeguarding the right of free expression. Preserving the right to a fair trial necessarily entails some curtailment of the information that may be disseminated about a party prior to trial, particularly where trial by jury is involved. If there were no such limits, the result would be the practical nullification of the protective effect of the rules of forensic decorum and the exclusionary rules of evidence. On the other hand, there are vital social interests served by the free dissemination of information about events having legal consequences and about legal proceedings themselves. The public has a right to know about threats to its safety and measures aimed at assuring its security. It also has a legitimate interest in the conduct of judicial proceedings, particularly in matters of general public concern. Furthermore, the subject matter of legal proceedings is often of direct significance in debate and deliberation over questions of public policy.

Special rules of confidentiality may validly govern proceedings in juvenile, domestic relations and mental disability proceedings, and perhaps other types of litigation. Rule 3.4(c) requires compliance with such rules.

The rule sets forth a basic general prohibition against a lawyer making statements that the lawyer knows or should know will have a substantial likelihood of materially prejudicing an adjudicative proceeding. Recognizing that the public value of informed commentary is great and the likelihood of prejudice to a proceeding by the commentary of a lawyer who is not involved in the proceeding is small, the rule applies only to lawyers who are, or who have been involved in the investigation or litigation of a case, and their associates.

Paragraph (b) identifies specific matters about which a lawyer's statements would not ordinarily be considered to present a substantial likelihood of material prejudice and should not in any event be considered prohibited by the general prohibition of paragraph (a). Paragraph (b) is not intended to be an exhaustive listing of the subjects upon which a lawyer may make a statement, but statements on other matters may be subject to paragraph (a).

There are, on the other hand, certain subjects which are more likely than not to have a material prejudicial effect on a proceeding, particularly when they refer to a civil matter triable to a jury, a criminal matter, or any other proceeding that could result in incarceration. These subjects relate to:

(1) Character, credibility, reputation or criminal record of a party, suspect in a criminal investigation or witness or the identity of a witness, or the expected testimony of a party or witness;

(2) In a criminal case or proceeding that could result in incarceration, the possibility of a plea of guilty to the offense or the existence or contents of any confession, admission, or statement given by a defendant or suspect or that person's refusal or failure to make a statement;

(3) The performance or results of any examination or test or the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;

(4) Any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or preceding that could result in incarceration;

(5) Information that the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and that would, if disclosed, create a substantial risk of prejudicing an impartial trial; or

(6) The fact that a defendant has been charged with a crime, unless there is included therein a statement explaining that the charge is merely an accusation and that the defendant is presumed innocent until and unless proven guilty.

Another relevant factor in determining prejudice is the nature of the proceeding involved. Criminal jury trials will be most sensitive to extrajudicial speech. Civil trials may be less sensitive. Nonjury hearings and arbitration proceedings may be even less affected. The rule will still place limitations on prejudicial comments in these cases, but the likelihood of prejudice may be different depending on the type of proceeding.

Finally, extrajudicial statements that might otherwise raise a question under this rule may be permissible when they are made in response to statements made publicly by another party, another party's lawyer, or third persons, where a reasonable lawyer would believe a public response is required in order to avoid prejudice to the lawyer's client. When prejudicial statements have been publicly made by others, responsive statements may have the salutary effect of lessening any resulting adverse impact on the adjudicative proceeding. Such responsive statements should be limited to contain only such information as is necessary to mitigate undue prejudice created by the statements made by others.

ANNOTATIONS

Source: Entire rule and comment replaced and adopted June 12, 1997, effective January 1, 1998.

Rule 3.8. - Special Responsibilities of a Prosecutor

The prosecutor in a criminal case shall:

(a) Refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause;

(b) Make reasonable efforts to assure that the accused has been advised of the right to, and the procedure for obtaining, counsel and has been given reasonable opportunity to obtain counsel;

(c) Not seek to obtain from an unrepresented accused a waiver of important pretrial rights, such as the right to a preliminary hearing;

(d) Timely disclose to the defense all information known to the prosecutor, regardless of admissibility, that the prosecutor also knows or reasonably should know tends to negate the guilt of the accused or mitigate the offense, or would affect a defendant's decision about whether to accept a plea disposition, except when the prosecutor is relieved of this responsibility by statute, rule, or protective order of the tribunal. This information includes all unprivileged and unprotected mitigation information the prosecutor knows or reasonably should know could affect the sentence. A prosecutor may not condition plea negotiations on postponing disclosure of information known to the prosecutor that negates the guilt of the accused. A prosecutor must make diligent efforts to obtain information subject to this rule that the prosecutor knows or reasonably should know exists by making timely disclosure requests to agencies known to the prosecutor to be involved in the case, and alerting the defense to the information if the prosecutor is unable to obtain it;

(e) Not subpoena a lawyer in a grand jury or other criminal proceeding to present evidence about a past or present client unless the prosecutor reasonably believes:

(1) the information sought is not protected from disclosure by any applicable privilege;
(2) the evidence sought is essential to the successful completion of an ongoing investigation or prosecution; and
(3) there is no other feasible alternative to obtain the information;

(f) Except for statements that are necessary to inform the public of the nature and extent of the prosecutor's action and that serve a legitimate law enforcement purpose, refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused unless such comments are permitted under Rule 3.6(b) or 3.6(c) or other law, and exercise reasonable care to prevent investigators, law enforcement personnel, employees or other persons assisting or associated with the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.6 or this Rule.

(g) When a prosecutor knows of new, credible and material evidence creating a reasonable probability that a convicted defendant did not commit an offense of which the defendant was convicted, the prosecutor shall within a reasonable time:

(1) disclose that evidence to an appropriate court or prosecutorial authority, and
(2) if the judgment of conviction was entered by a court in which the prosecutor exercises prosecutorial authority

(A) disclose the evidence to the defendant, and
(B) if the defendant is not represented, move the court in which the defendant was convicted to appoint counsel to assist the defendant concerning the evidence.

(h) When a prosecutor knows of clear and convincing evidence establishing that a defendant was convicted in a court in which the prosecutor exercises prosecutorial authority, of an offense that the defendant did not commit, the prosecutor shall take steps in the appropriate court, consistent with applicable law, to set aside the conviction.

(i) Make timely disclosure to the defense of all evidence of information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal; and

(j) Exercise reasonable care to prevent investigators, law enforcement personnel, employees or other persons assisting or associated with the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.6.

(k) Not subpoena a lawyer in a grand jury or other criminal proceeding to present evidence about a past or present client unless:

(1) The prosecutor reasonably believes:

(A) The information sought is not protected from disclosure by any applicable privilege;

(B) The evidence sought is essential to the successful completion of an ongoing investigation or prosecution; and

(C) There is no other feasible alternative to obtain the information.

CRITICAL INCIDENT CONSIDERATIONS

Often characterized by the following

1. Sudden and unexpected
2. Disrupt sense of control
3. Disrupt basic beliefs and assumptions
4. Perception of life threat
5. Potentially overwhelming
6. Physical/emotional loss

Factors affecting critical incident response

1 Perceived severity of trauma

- Sense of personal threat
- Incident variables: blood & gore, age of victims, personal connections

2. Nature of recovery environment

3. Personal Variables

- History of trauma & unresolved or multiple traumas
- Religious, philosophical, metaphysical, spiritual beliefs about events
- Assessment of personal performance/options

OFFICER PERCEPTUAL DISTORTIONS DURING SHOOTINGS
Alexis Artwhol, Ph.D

(Percentages reflect research subject experiences and are consistent with the results of other studies.)

84%	Diminished sound
79%	Tunnel vision
71%	Heightened visual clarity
62%	Slow motion time
52%	Memory loss for parts of event
46%	Memory loss for some of your actions
39%	Dissociation
26%	Intrusive distracting thoughts
21%	Memory distortion
17%	Fast motion time
16%	Intensified sounds
7%	Temporary paralysis

CRITICAL INCIDENT STRESS REACTIONS

You have experienced a traumatic event or a critical incident (any event that causes unusually strong emotional reactions that have the potential to interfere with the ability to function normally). Even though the event may be over, you may now be experiencing or may experience later, some strong emotions or physical reactions. It is very common, in fact quite *normal,* for people to experience emotion aftershocks when they have passed through a horrible event.

Sometimes the emotional aftershocks (or stress reactions) appear immediately after the traumatic event. Sometimes they may appear a few hours or a few days later. And, in some cases, weeks or months may pass before the stress reactions appear.

The signs and symptoms of a stress reaction may last a few days, a few weeks, a few months, or longer, depending on the severity of the traumatic event. The understanding and the support of loved ones usually cause the stress reactions to pass more quickly. Occasionally, the traumatic event is so painful that *professional assistance may be necessary. This does not imply craziness or weakness.* It simply indicates that the particular event was just too powerful for the person to manage by himself.

Here are some common signs and signals of a stress reaction:

Physical*	***Cognitive***	***Emotional***	***Behavioral***
Chills	Confusion	fear	Withdrawal
Thirst	Nightmares	guilt	antisocial acts
Fatigue	Uncertainty	grief	inability to rest
Nausea	Hypervigilance	panic	intensified pacing
Fainting	Suspiciousness	denial	erratic movements
twitches	intrusive images	anxiety	change in social activity
vomiting	blaming someone	agitation	change in speech patterns
dizziness	poor problem solving	irritability	loss or increase of appetite
weakness	poor abstract thinking	depression	Hyper-alert to environment
chest pain	poor attention/decisions	intense anger	increased alcohol consumption
headaches	poor concentration/memory	apprehension	change in usual communications
elevated BP	disorientation of time, place, or person	emotional shock	etc...
rapid heart rate	difficulty identifying objects or people	emotional outbursts	

Physical*	***Cognitive***	***Emotional***	***Behavioral***
muscle tremors	heightened or lowered alertness	feeling overwhelmed	
shock symptoms	increased or decreased awareness of surroundings	loss of emotional control	
grinding of teeth	etc...	inappropriate emotional response	
visual difficulties		etc...	
profuse sweating			
difficulty breathing			
etc...			

Any of these symptoms may indicate the need for medical evaluation. When in doubt, contact a physician.

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Critical Incident Management
Recommendations for Law Enforcement Agencies

Law Enforcement Agency and Officer Preparation. Critical incident management begins prior to the occurrence of a critical incident. To best prepare officers and other police employees (hereafter referred to as "employee") for the possibility of exposure to a critical incident, and to lessen the probability of secondary injury as a result of critical incident exposure, it is recommended that law enforcement agencies: (1) develop an association with a mental health professional experienced in police and trauma psychology, (2) develop a peer support team that operates in conjunction with the mental health professional, (3) include stress and trauma inoculation training in the agency academy, and (4) include instruction in the agency's critical incident policies, procedures, and protocols in the basic academy curriculum. Following completion of the basic academy and during field training, participation in the Psychologist and Training/Recruit Officer Liaison (P.A.T.R.O.L.) program is recommended. *

Concept of *Secondary injury*. Secondary Injury occurs when an employee is treated poorly following a critical incident, even if unintentionally. Secondary Injury is especially likely if the poor treatment comes from the employee's own department. Remember, you don't have to intend harm to do harm. One way to virtually ensure secondary injury is to treat involved officers or other police employees as suspects following a critical incident without reason to do so.

Agency support - supporting police employees following a critical incident:

1. Remove the employee from the scene: Remove involved employees from the scene as soon as possible to a gatekeeper-controlled environment. Do not isolate the employee. Utilize the agency peer support team and the department mental health professional for on-scene and continued support.

2. Spouse and family notification: The way in which an employee's spouse and other family members are notified of an employee's involvement in a critical incident is important, especially if the employee has been injured. When capable, it is normally best for the employee's family if the employee contacts them directly. If an employee is incapacitated, department notification policies should be followed. In either circumstance, the peer support team and other department support services should be made available to family members to ensure they receive appropriate assistance and support.

3. Spouse transportation and access to the officer: Once the employee has been transported to a secure location, and if the employee wishes to be joined by his/her spouse, the department should offer to transport the employee's spouse to the location. The spouse should be given unrestricted access to the employee. When necessary, spouses should be advised that the employee may be a source of evidence yet to be collected and personal contact is to be avoided.

4. Employee and family support immediately following the incident: The peer support team and department mental health professional continue support for the employee and family throughout the immediate investigative process.

5. The employee's weapon and badge: If applicable, replace the employee's firearm if it is taken as evidence. When possible, replace it with a similar firearm. If the employee's clothing is taken as evidence, allow the employee to retain the badge. If the badge is also taken as evidence, provide a replacement badge.

6. Contact from the Chief: In person contact from the Chief, Sheriff, or department top administrator as soon as practical is recommended. Although the incident facts may not have been determined at the time of contact, a recognition of the risk confronted by the employee and assurances of department support from the department head has been determined to be a factor in reducing the probability of secondary injury. Experience has shown that although contact from other high-ranking department officials is much appreciated by employee that have been involved in a critical incident, it is no substitute for contact by a Chief, Sheriff, or top administrator. Telephone and other means of contact helps when in-person contact is not possible. Ongoing periodic contact from the top administrator is also recommended.

7. Employee blood sample without probable cause: Mandating the taking of a blood sample without probable cause and solely because an employee has been involved in a shooting or other force-related critical incident is unwarranted and may contribute to secondary traumatization. Agencies may offer to take a blood sample, and employees may request that a blood sample be taken.

8. Criminal and administrative investigations: Make a clear distinction between the criminal investigation and the administrative investigation. Investigators should consistently clarify their investigative role when interviewing employees involved in critical incidents.

9. Appoint a department contact: Appoint an employee to act as the involved-employee's department contact. The contact employee is assigned the responsibility of keeping the involved employee apprised of the investigation progress, new case developments, and any planned incident-related press releases. The contact employee may also be called upon by the involved employee to discuss any issues involving the department and ongoing case investigation.

10. Social media: Make a department social media specialist or public information officer available to the involved employee and the employee's family to assist with them with any social media questions, difficulties, or protection of their social media accounts.

11. Prepare the employee for negative comments: Prepare the employee for possible criticism and negative information from the print press, segments of

community, family members of the suspect, social media, and other sources. Such information is often generated from rumor, limited information, and inaccurate observations. Employees must remain grounded in what they know to be true to positively cope with false accusations that, due to the ongoing investigation and restrictions on releasing case information, they cannot comment upon.

12. Employee and family security: Evaluate the need for employee and family security. Make arrangements for family and residence security if necessary.

13. Offer continued family support: Following an employee involved critical incident, especially those involving firearms or employee injury, families are frequently impacted by an increased sense of danger and employee vulnerability. Additionally, the incident and subsequent press releases may generate issues for the spouse and children. Ongoing department support can do much to help family members to positively cope with the stressors that may arise out of an employee's critical incident.

14. Group debriefing and other support interventions: Incident group debriefings and other department-sponsored support interventions should be utilized as warranted.

15. Administrative leave and policy: Maintain or develop policies that place employees involved in shootings and other select critical incidents on paid administrative leave. Employees should receive written notification of this status. Administrative leave allows the employee a break from job demands while the employee and family are supported throughout the incident and aftermath. Employees normally remain on administrative leave during the course of the incident investigations and several components of the Return to Duty Protocol.

16. Mental health professional counseling support: Place the employee in an ongoing confidential counseling support program with the department mental health professional as soon as practical. This program is designed by the department mental health professional to meet employee-specific needs. It normally consists of regularly scheduled support meetings during the period of administrative leave, return to duty, and beyond as needed, and may include spouses and other family members.

17. No psychological fitness for duty evaluation without reason: Employees that have experienced a critical incident should not be made to undergo a formal psychological fitness for duty evaluation solely because they were involved in a critical incident. Such an evaluation is unjustified and unnecessary unless there are specific concerns about an employee's psychological fitness for duty.

18. Incident investigation: Expedite the criminal and administrative investigations in order to expedite closure for the employee.

19. Employee specific and incident-specific concerns: Address any specific employee and incident issues that were generated from the incident, exacerbated by the incident, or that arise as a result of being placed on administrative leave. Specific concerns include previously scheduled court appearances, previously scheduled training, use of department vehicles and equipment, off-duty jobs, moving from administrative leave to modified duty before full duty, and so on. Utilize the peer support team, department mental health professional, and other resources as needed.

20. Return to Duty Protocol. Implement the Return to Duty Protocol. The Return to Duty Protocol is comprised of several components designed to address the primary issues of critical incident exposure as well as reduce the probability of secondary injury. The timing of implementation of each component of the Return to Duty Protocol is determined by the department mental health professional in collaboration with the employee.

Jack A. Digliani, PhD, EdD & Dan Dworkin, PhD
*(For P.A.T.R.O.L. information visit www. jackdigliani.com).

Return to Duty

The way in which a police employee is treated after involvement in a critical incident influences the probability of secondary injury and traumatization. Specific support interventions and the completion of several tasks have been shown to be helpful in reducing this probability. Together, these interventions and tasks comprise the Return to Duty Protocol. The timing and implementation sequence of the Return to Duty Protocol is determined within the employee/mental health professional counseling program.

Return to Duty Protocol

Support during incident-related recordings and reports: If an employee chooses to view his or her bodycam and/or dash cam recording of the incident, listen to dispatch recordings, or read other-employee incident reports, the department mental health professional and/or an employee-selected peer support team member will be present upon the employee's request.

Return to scene: The department mental health professional and the employee return to the incident scene. Although the employee may have previously completed an investigative walk through of the scene, this is an experiential return to the scene. Multiple returns at different times and lighting conditions may be necessary to best facilitate a degree of psychological closure. During the visits, the employee is encouraged to methodically review what happened, to discuss personal perceptions, and process any emotional responses.

Firing range if shooting incident: If the incident involved the discharge of the employee's firearm, the employee completes a qualifying course of fire under the

supervision of a department firearms instructor. Practice shooting before firing for qualification is encouraged. The goal is to assure that the employee is not experiencing any incident-related difficulties associated with firearms before returning to duty. If the employee's firearm has been placed into evidence, the employee shoots the firearm that will be carried upon return to duty. It is recommended that the department mental health professional and/or an employee-selected peer support team member accompany and support the employee during the firearm activity.

Employee Wellness Assessment (EWA) -The Employee Wellness Assessment consists of a collaboration between the department mental health professional and the employee. The primary goal of the EWA is to determine whether there is a newly developed incident-related difficulty or an incident-exacerbated past difficulty that would prevent the employee from safely returning to duty. It is also used to determine the optimal timing for the initiation of the graded re-entry to duty.

Graded re-entry and "buddy": Upon successful completion of the above Return to Duty Protocol components, and after it is determined that the employee is ready to return to a full duty assignment, the employee is placed in a graded re-entry program. Graded re-entry programs are designed by the department mental health professional and utilize a "buddy" that supports and accompanies the returning employee during the program. Graded re-entry programs are specifically designed for each returning employee and can vary in duration and role of the buddy. All graded re-entry programs include periodic communication between the returning employee and the department mental health professional as the returning employee progresses through the program. Buddies may also contact the department mental health professional if necessary. The graded re-entry program provides for rapid support intervention, including temporary removal of the returning employee from the program should it become necessary. *

Follow up: After the employee successfully completes the graded re-entry process, an appropriate follow up plan is designed and implemented. The follow up plan may include (1) future meetings with the department mental health professional, (2) additional meetings with members of the peer support team, (3) continued spouse and other family member support, (4) peer support team contact on or before significant holidays for at least the first year following the incident ("year of firsts"), and (5) most importantly, peer support reach out on or before the anniversary date of the incident.

Jack Digliani, PhD. EdD & Dan Dworkin, PhD
*(For an example of a graded-re-entry program visit www. jackdigliani.com).

POLICE EMPLOYEE ADVISEMENT

Advisement Given to Officer: _____

1. My name is ; I am a CIRT investigator with _____. I am responsible for the criminal investigation of this case. The purpose of this criminal investigation is simply to determine if any laws have been violated in reference to this incident.

2. You are not in custody. You are free to leave if you wish. You may stop talking to us at any time and/or speak with your attorney at any time before continuing. The door is not locked, and you know how to exit the building.

3. You don't have to talk with us, and no negative job sanctions will occur if you choose not to talk with us. You are not compelled in any way to make a statement.

4. This interview is being video recorded. It is intended that this video recorded interview will serve as your report for this incident.

5. Do you feel you are capable of giving a statement at this time, doing a diagram and/or a walk-through of the scene, or identifying any witnesses and/or suspects if needed for the investigation? If yes, initial here.___

Dated this_____day of_____at_____hrs.

_____
Investigator

CHEMICAL TEST ADVISEMENT

Advisement Given to Officer: _____

You have been involved in a critical incident. Pursuant to the Eighth Judicial District's Critical Incident Protocol, we are conducting a criminal investigation to determine if anyone involved in this incident has committed a crime.

As part of that investigation, if you would like to have a sample of your blood drawn for later testing, at your or your legal representative's request, we will make arrangements for the collection and storage of such a sample.

We are not asking you to submit to such a test but are simply advising you that we will accommodate your request should you wish for a sample to be collected.

[ ] Police employee accepts offer to have a blood sample collected.

[ ] Police employee declines offer to have a blood sample collected.

Date:_____
Time: _____

Name of CIRT Advising Officer

_____
Signature of CIRT Advising Officer

AFFIRMATIVE DEFENSE AND USE OF FORCE STATUTES

C.R.S. 18-1-704. Use of force in defense of a person

(1) "... A person is justified in using physical force upon another person in order to defend himself or a third person from what he **reasonably** believes to the **use or imminent use of unlawful physical force** by that other person, and he may use a degree of force which he **reasonably believes** to be necessary for that purpose.

(2) DEADLY PHYSICAL FORCE may be used only if the person **reasonably believes** a **lesser degree of force is inadequate** and:

(a) The actor has **reasonable grounds to believe** and **does believe** that he or another person is in **imminent danger** of being **killed or of receiving great bodily injury."**

C.R.S 18-1-707. Use of force by peace officers - definition.

(1) Peace officers, in carrying out their duties, shall apply nonviolent means, when possible, before resorting to the use of physical force. A peace officer may use physical force only if nonviolent means would be ineffective in effecting an arrest, preventing an escape, or preventing an imminent threat of injury to the peace officer or another person.

(2) When physical force is used, a peace officer shall:

(a) not use deadly physical force to apprehend a person who is suspected of only a minor or nonviolent offense;

(b) use only a degree of force consistent with the minimization of injury to others;

(c) ensure that assistance and medical aid are rendered to any injured or affected persons as soon as practicable; and

(d) ensure that any identified relatives or next of kin of persons who have sustained serious bodily injury or death are notified as soon as practicable.

(2.5) (a) a peace officer is prohibited from using a chokehold upon another person.

(b) (i) For the purposes of this subsection (2.5), "chokehold" means a method by which a person applies sufficient pressure to a person to make breathing difficult or impossible and includes but is not limited to any pressure to the neck, throat, or windpipe that may prevent or hinder breathing or reduce intake of air.

(ii) "Chokehold" also means applying pressure to a person's neck on either side of the windpipe, but not to the windpipe itself, to stop the flow of blood to the brain via the carotid arteries.

(3) A peace officer is justified in using deadly physical force to make an arrest only when all other means of apprehension are unreasonable given the circumstances and:
(a) the arrest is for a felony involving conduct including the use or threatened use of deadly physical force;

(b) the suspect poses an immediate threat of death or serious bodily injury to the peace officer or another person;

(c) the force employed does not create a substantial risk of injury to other persons.

(4) A peace officer shall identify himself or herself as a peace officer and give a clear verbal warning of his or her intent to use firearms or other deadly physical force, with sufficient time for the warning to be observed, unless to do so would unduly place peace officers at risk of injury or would create a risk of death or injury to other persons.

(4.5) Notwithstanding any other provision in this section, a peace officer is justified in using deadly force if the peace officer has an objectively reasonable belief that a lesser degree of force is inadequate and the peace officer has objectively reasonable grounds to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving serious bodily injury.

C.R.S. 18-8-202 Duty to Report – Duty to Intervene

(1)(a) A peace officer who, in pursuance of such officer's law enforcement duties, witnesses another peace officer, in pursuance of such other peace officer's law enforcement duties in carrying out an arrest of any person, placing any person under detention, taking any person into custody, booking any person, or in the process of crowd control or riot control, use physical force which exceeds the degree of physical force permitted pursuant to section 18-1-707 must report such use of force to such officer's immediate supervisor.

(b) At a minimum, the report required by this section shall include the date, time, and place of the occurrence, the identity, if known, and description of the participants, and a description of the events and the force used. A copy of an arrest report or other similar report required as a part of a peace officer's duties can be substituted for the report required by this section, so long as it includes such information. The report shall be made in writing within ten days of the occurrence of the use of such force.

(c) Any peace officer who fails to report such use of force in the manner prescribed in this

subsection (1) commits a class 2 misdemeanor.

(1.5)(a) A peace officer, as defined in section 24-31-901 (3), who is on-duty shall intervene to prevent or stop another peace officer from using physical force that exceeds the degree of force permitted, if any, by section 18-1-707 in pursuance of the other peace officer's law enforcement duties in carrying out an arrest of any person, placing any person under detention, taking any person into custody, booking any person, or in the process of crowd control or riot control, without regard for chain of command.

(b)(I) A peace officer, as defined in section 24-31-901 (3), who intervenes as required by subsection (1.5)(a) of this section shall report the intervention to his or her immediate supervisor.
(II) At a minimum, the report required by this subsection (1.5)(b) must include the date, time, and place of the occurrence; the identity, if known, and description of the participants; and a description of the intervention actions taken. This report must be in writing within ten days of the occurrence of the use of such force and must be included with all other reports of the incident.

(c) A member of a law enforcement agency shall not discipline or retaliate in any way against a peace officer, as defined in section 24-31-901 (3), for intervening as required by subsection (1.5)(a) of this section, or for reporting unconstitutional conduct, or for failing to follow what the officer reasonably believes is an unconstitutional directive.

(d) Any peace officer, as defined in section 24-31-901 (3), who fails to intervene to prevent the use of unlawful force as prescribed in this subsection (1.5) commits a class 1 misdemeanor.

(e) When an administrative law judge or internal investigation finds that a peace officer, as defined in section 24-31-901 (3), failed to intervene to prevent the use of unlawful physical force as prescribed in this subsection (1.5), this finding must be presented to the district attorney so that the district attorney can determine whether charges should be filed pursuant to subsection (1.5)(d) of this section. However, nothing in this subsection (1.5)(e) prohibits or is intended to discourage the district attorney from charging an officer with failure to intervene before the conclusion of any internal investigation.

(f)(I) In a case in which the prosecution charges a peace officer, as defined in section 24-31-901 (3), with offenses related to and based upon the use of excessive force but does not file charges against any other peace officer or officers who were at the scene during the use of force, the district attorney shall prepare a written report explaining the district attorney's basis for the decision not to charge any other peace officer with any criminal conduct and shall publicly disclose the report to the public; except that if disclosure of the report would substantially interfere with or jeopardize an ongoing criminal investigation, the district attorney may delay public disclosure for up to forty-five days. The district attorney shall post the written report on its website or, if it does not have a website, make it publicly available upon request. Nothing in this subsection (1.5) prohibits or discourages

prosecution of any other criminal offense related to failure to intervene, including a higher charge, if supported by the evidence.
(II) Any peace officer who knowingly makes a materially false statement, which the officer does not believe to be true, in any report made pursuant to subsection (1) of this section commits false reporting to authorities pursuant to section 18-8-111(1)(a)(III).
(III) No report filed pursuant to subsection (1) of this section shall be used as evidence against a peace officer in a criminal proceeding unless there is other credible evidence which corroborates such report or in a civil action over a claim of executive or statutory privilege without a valid court order.

C.R.S. 18-8-803 Use of Excessive Force

(1) Subject to the provisions of section 18-1-707, a peace officer who uses excessive force in pursuance of such officer's law enforcement duties shall be subject to the criminal laws of this state to the same degree as any other citizen, including the provisions of part 1 of article 3 of this title concerning homicide and related offenses and the provisions of part 2 of said article 3 concerning assaults.

(2) As used in this section, "excessive force" means physical force which exceeds the degree of physical force permitted pursuant to section 18-1-707. The use of excessive force shall be presumed when a peace officer continues to apply physical force in excess of the force permitted by section 18-1-707 to a person who has been rendered incapable of resisting arrest.

CRITICAL INCIDENT ASSIGNMENT SHEET

DATE:_____
INVOLVED AGENCY:_____CASE NUMBER:_____
VENUE AGENCY: _____

Involved Employee #1		Officer's Location
Involved Employee #2		Officer's Location
Involved Employee #3		Officer's Location
Witness Officer		Officer's Location
Witness Officer		Officer's Location
Witness Officer		Officer's Location
Witness Officer		Officer's Location

CIRT Incident Commander
Team Lead - Interviews
Team Lead - Crime Scene
District Attorney's Representative
Coroner's Representative (If Applicable)

CRIME SCENE

Crime Scene #1
Crime Scene #2
Officer Processing
Suspect
Suspect Location
Suspect Processing

INTERVIEWS

Officer's Name	Location ofInterview	Interviewer

GATEKEEPERS

Officer's Name	Gatekeeper Name
Officer's Name	Gatekeeper Name
Officer's Name	Gatekeeper Name

Victim Services Name _____

PEER SUPPORT PRIVILEGE STATUTE

C.R.S. 13-90-107(1)(m) Who may not testify without consent:

(m)(I) A law enforcement or firefighter peer support team member shall not be examined without the consent of the person to whom peer support services have been provided as to any communication made by the person to the peer support team member under the circumstances described in subsection (1)(m)(III) of this section; nor shall a recipient of peer support services be examined as to any such communication without the recipient's consent.

(I.5) An emergency medical service provider or rescue unit peer support team member shall not be examined without the consent of the person to whom peer support services have been provided as to any communication made by the person to the peer support team member under the circumstances described in subsection (1)(m)(III) of this section; nor shall a recipient of peer support services be examined as to any such communication without the recipient's consent.

(I.6) A district attorney or public defender peer support team member shall not be examined without the consent of the person to whom peer support services have been provided as to any communication made by the person to the peer support team member under the circumstances described in subsection (1)(m)(III) of this section; nor shall a recipient of peer support services be examined as to any such communication without the recipient's consent.

(II) As used in this subsection (1)(m):

(A) “Communication” means an oral statement, written statement, note, record, report, or document made during, or arising out of, a meeting with a peer support team member.

(A.3) “District attorney or public defender peer support team member” means an employee of a district attorney's office or a public defender's office who has been trained in peer support skills and who is officially designated by a district attorney or the state public defender as a member of a district attorney's office peer support team or an office of the state public defender peer support team.

(A.5) “Emergency medical service provider or rescue unit peer support team member” means an emergency medical service provider, as defined in section 25-3.5-103(8), C.R.S., a regular or volunteer member of a rescue unit, as defined in section 25-3.5-103(11), C.R.S., or other person who has been trained in peer support skills and who is officially designated by the supervisor of an emergency medical service agency as defined in section 25-3.5-103(11.5), C.R.S., or a chief of a rescue unit as a member of an emergency medical service provider's peer support team or rescue unit's peer support team.

(B) “Law enforcement or firefighter peer support team member” means a peace officer, civilian employee, or volunteer member of a law enforcement agency or a regular or volunteer member of a fire department or other person who has been trained in peer support skills and who is officially designated by a police chief, the chief of the Colorado state patrol, a sheriff, or a fire chief as a member of a law enforcement agency's peer support team or a fire department's peer support team.

(III) This subsection (1)(m) applies only to communications made during interactions conducted by a peer support team member:

(A) Acting in the person's official capacity as a law enforcement or firefighter peer support team member, emergency medical service provider or rescue unit peer support team member, or district attorney or public defender peer support team member; and

(B) Functioning within the written peer support guidelines that are in effect for the person's respective law enforcement agency, fire department, emergency medical service agency, rescue unit, district attorney's office, or public defender's office.

(IV) This subsection (1)(m) does not apply in cases in which:

(A) A law enforcement or firefighter peer support team member, emergency medical service provider or rescue unit peer support team member, or district attorney or public defender peer support team member was a witness or a party to an incident which prompted the delivery of peer support services;

(B) Information received by a peer support team member is indicative of actual or suspected child abuse, as described in section 18-6-401; actual or suspected child neglect, as described in section 19-3-102; or actual or suspected crimes against at-risk persons, as described in section 18-6.5-103;

(C) Due to intoxication by alcohol, being under the influence of drugs, or incapacitation by substances as described in section 27-81-111, the person receiving peer support is a clear and immediate danger to the person's self or others;

(D) There is reasonable cause to believe that the person receiving peer support has a mental health disorder and, due to the mental health disorder, is an imminent threat to himself or herself or others or is gravely disabled as defined in section 27-65-102; or

(E) There is information indicative of any criminal conduct.

CIRT Involved Officer Interview

*** *This suggested list is merely a guide; it is not intended for this to be an all-inclusive list. Case facts will dictate the addition or exclusion of questions.****

1. On camera introductions of everyone in the interview.
2. Check on officer's welfare and if the officer has all his immediate needs being met?
3. ***Advisement utilizing the advisement of rights form in the protocol*** (The offer for the officer to submit to chemical testing at the officer's request will be done during officer processing)
4. Advise the officer this interview is intended to be his official report of the incident and there is not a need for a follow-up written report.
5. When did the officer start with the department, any prior law enforcement experience?
6. Current shift assignment and how long in that assignment?
7. What do those assignments entail? (Patrol, Detective, CIU, area assignment etc...)
8. Any collateral duties or specialized training? (SWAT, K-9, Negotiator, weapons...)
9. Prior to today what did your work week consist of? (days worked, call outs, training)
10. What were you scheduled to work today? (shift, off duty, call out)
11. Where were you assigned to work today?
12. How were you dressed at the time of this incident?
13. Describe the gear and tools the officer carried at the time of the incident? (duty belt, vest, badge, taser, handcuffs, weapon, magazines, etc.)
14. Weapons questions
    - What is your standard duty weapon? Make, model, how loaded, ammo if known?
    - Is your ammunition department supplied?
    - Is that the weapon you were carrying at the time if this incident?
    - Were you carrying a backup weapon? If so make, model, was it involved, etc.
    - What was the disposition of your weapons? (turned over to…)
    - Any changes to the weapon after being used and prior to the disposition? (reloaded, unloaded, etc.)
15. Describe your day at work up to this specific call? (calls for service, difficulties, quiet, busy)
16. What was the initial nature of the call? (Welfare check, robbery, etc...)

17. Did the nature of the call ever change?

18. How did you become involved in this specific call? (were you dispatched, self-initiated)

19. What did you hear being aired over the radio?

20. Did you have any additional sources of information going into this call?
    (Conversations with co-workers, prior history, photographs, cad notes, etc...)

21. What did you know about the suspect, description, and weapons he may be carrying?

22. **Have officer describe in as much detail as possible their personal recollection of this call from start to finish.**
    (** Allow officer to go through entire call <u>without Interruption-</u> clarify later****)**

23. Ask for the officer to draw a diagram of the scene from the officer's perspective. (white board or paper) If on white board make sure to photograph.

24. Make sure the diagram includes where the officer's vehicles were parked and location of all thesuspect and officers if known.

25. In follow-up to clarifying the officers full account of the call:

- Did the officer articulate any fears he/she had at the time? (to self or others)
- Were there any specific threats made by anyone?
- What weapon it was believed the suspect had?
- Did the officer articulate seeing a weapon?
- Did the officer articulate any communications he had made or heard?
- Did the officer identify himself as law enforcement?
- Did the officer articulate his understanding of any other officer's actions?
- How all the other parties involved were dressed?
- If a suspect used a weapon in the incident, what does the officer recall? (description, location, number of shots, smoke, sound, direction of shots, etc.)
  If the officer used a weapon, what do they recall? (description, location, number of shots, smoke, sound, direction of shots, etc.)
- Are you aware of any other officers using force or a weapon? If so, what do you recall? (description, location, number of shots, smoke, sound, direction of shots, etc.)
- Where was your intended target area or where were you aiming?
- Did he/she reload or have any malfunctions?
- Did the officer articulate the thought process on weapon selections?
- Did the officer describe when any weapons were first presented?
- Did the officer articulate or use various levels of force? Why/Why not? What was used?
- What caused the incident to end? Or What made you stop firing?
- The officer's actions following the incident (handcuffing, rendering aide etc...)
- Weather conditions?
- Lighting conditions
- Any artificial light utilized?

- Timeline?
- Any recordings? (Body cam, dash, voice etc...)
- Did the officer or anyone move/change anything at the scene? Why?
- Did he/she observe any possible witnesses?
- If not specifically stated in open narrative, “What do you think the outcome would have been I you had not used that level of force?”

26. Any prior relationships or knowledge of those involved? (Suspect, victim etc...)

27. Anything the officer would like to add that was not already discussed?

28. Any concerns of the officer?

29. ***Take break prior to completing interview.***

30. At conclusion of the interview, provide officer and any legal representation with business cardsfor a single point of contact for CIRT if they have any additional information they want to clarify or add.

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CIRT PROTOCOL --- rev. 3/2025

WINDSOR POLICE DEPARTMENT

Signed by: Stephen Garrison
BFFE2DB0F9CB463...
Date 1/21/2026

CHIEF STEPHEN GARRISON

COLORADO STATE PATROL

Signed by: Ian Whittington
27BE4F13C5E547A...
Date 12/4/2025

CAPTAIN BART TRIPPEL

COLORADO STATE UNIVERSITY POLICE

Signed by: Stacey Clement
7C0465398055451...
Date 3/31/2026

DEPUTY CHIEF STACEY CLEMENT

DISTRICT ATTORNEY'S OFFICE EIGHTH JUDICIAL DISTRICT

Signed by: Gordon McLaughlin
84B8F8E6D3C644F...
Date 4/6/2026

GORDON P. McLAUGHLIN

ESTES PARK POLICE DEPARTMENT

Signed by: Ian Stewart
5E571A1ADF21453...
Date 11/20/2025

CHIEF IAN STEWART

FORT COLLINS POLICE SERVICES

Signed by: Jeff Swoboda
2EA58EA5503A477...
Date 4/29/2026

CHIEF JEFF SWOBODA

JACKSON COUNTY SHERIFF'S DEPT.

Signed by: Dustin Weber
6344C50197C64B4...
Date 12/2/2025

SHERIFF DUSTIN WEBER

JOHNSTOWN POLICE DEPARTMENT

Signed by: Jeff Strossner
7FF146B1BA7B43D...
Date 11/12/2025

CHIEF JEFF STROSSNER

LARIMER COUNTY SHERIFF'S DEPT.

DocuSigned by: John J Feyen
750EA1ED88CD488...
Date 12/4/2025

SHERIFF JOHN FEYEN

LOVELAND POLICE DEPARTMENT

Signed by:
5251CEEA8F65480...
Date 1/21/2026

CHIEF TIM DORAN

TIMNATH POLICE DEPARTMENT

Signed by:
BF43884F0C8C470...
Date 12/3/2025

CHIEF LAURIE SCOTT

BNSF RAILROAD POLICE

Signed by: Jeffrey Matthews
45CFCC3B1B00490...
Date 11/11/2025

DEPUTY CHIEF JEFFREY MATTHEWS