

**7TH JUDICIAL DISTRICT LAW ENFORCEMENT
OFFICER INVOLVED CRITICAL INCIDENT INVESTIGATION TEAM
POLICY AND PROCEDURE**

I. GENERAL

A. It is the consensus of the 7th Judicial District law enforcement agencies that a team of highly trained and skilled investigators, made up of personnel from various law enforcement agencies and the District Attorney's Office within the 7th Judicial District, be formed to assist in the investigation of incidents where any law enforcement officer within the 7th Judicial District uses deadly force, or attempts to use deadly force, against a human being during the commission of the officer's duties.

B. The CIIT is desirable to provide any department requesting assistance with a team of investigators that will insure a neutral, impartial, and thorough investigation of these incidents is conducted.

II. PERSONNEL

A. The 7th Judicial District Critical Incident Investigation Team, (CIIT) shall consist of certified law enforcement personnel who are designated by the Chiefs of Police, Sheriffs, and District Attorney, hereafter referred to as the Chief Executive Officer (CEO) of those participating agencies within the 7th Judicial District.

B. A coordinator and alternate coordinators of the team will be selected from the 7th Judicial District Law Enforcement Agencies and said selection shall be approved by the CEO of each participating agency within the 7th Judicial District. A rotation schedule for the position of coordinator and alternate coordinator may be created to limit the burden on any one agency.

C. The designated law enforcement personnel serving on the team shall be assigned by the CIIT coordinator as primary and alternate members. Each member will serve at the discretion of the appointing or current CEO of their respective agency.

D. Any member may be removed upon recommendation of the coordinator and with the approval of a majority of the CEO's of the agencies making up the team. All appointments to the team shall be reviewed on an annual basis.

III. PROCEDURES

A. The CIIT Team is available to all law enforcement agencies within the 7th Judicial District as an investigative tool available to the requesting agency.

B. The CIIT Team will be activated only upon the request of the CEO, or the CEO's designee, having the law enforcement and investigative jurisdiction over the incident.

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- C. The CIIT Team will operate under the direction of the Team Coordinator working in conjunction with the requesting agency's CEO or the CEO's designee.
- D. The CIIT Team will perform its designated function and present fact finding reports to the requesting jurisdiction and the District Attorney's Office.

IV. NOTIFICATION

- A. Requests for the assistance of the CIIT Team shall be made by the CEO, or the CEO's designee from the agency having jurisdiction over the investigation.
- B. All requests for assistance shall be made to the team coordinator, or if unavailable, the alternate team coordinator, who will then serve as the Investigation Team coordinator for the incident. A list of additional Alternate CIIT leaders designated to activate the CIIT in the event that the coordinator and the alternate coordinator cannot be reached shall be made available to participating agencies.
- C. The coordinator will assess the details of the incident and decide what personnel and equipment may be needed for the investigation.
- D. The coordinator will contact the CIIT members with response instructions.
- E. All existing procedures as to the notification of the District Attorney's Office following a law enforcement officer's use of, or attempted use of, or deadly force, shall apply and be followed precisely.

V. EQUIPMENT/TESTS/PERSONNEL/COSTS

- A. If possible, all necessary equipment shall be supplied by the requesting agency. If additional or specialized equipment is needed, the cost of obtaining such equipment shall be borne by the requesting agency upon approval of the requesting agency CEO or their designee. This does not prohibit any individual team member from bringing along any piece of equipment they may deem necessary, providing the requesting agency has no objection.
- B. Any specialized tests shall be performed by, or approved by the requesting agency, which shall be responsible for any costs pertaining to the tests.
- C. All normal personnel cost shall be the responsibility of the agency providing the members to the team and not the requesting agency. Any other personnel costs must be approved by the requesting agency prior to being incurred.

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

VI. ANNUAL REPORT

A. The 7th Judicial District's CIIT coordinator shall prepare and present to CEO's a written annual report describing the activities of the team for the previous year no later than February 1 of each year.

VII. CHANGES TO POLICY AND PROCEDURE

A. Any member agency CEO may request a change to this policy and procedure. To facilitate the change, contact the team coordinator and request a meeting be called of the participating CEOs. A minimum of fifteen days will be needed to schedule the meeting. (This provision is not intended to be used for policy changes during an active CIIT investigation)

VIII. DEFINITIONS

A. "Officer-Involved Fatal/Near Fatal Incidents"

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

- a) Intentional and accidental shootings, including police tactical incidents involving specialized response teams.
- b) Intentional and accidental use of any other dangerous or deadly weapon
- c) Assaults resulting in death or a substantial risk of death upon police officers, assaults on other police employees who are on duty or are acting for a law enforcement purpose
- d) Any fatal injury occurring in police custody
- e) Any fatal injury to a person who is a passenger of a police officer (such as ride-along's, emergency transports, etc)

B. Vehicular collisions:

1. Including any vehicle fatality which occurs:
 - a) After, although not necessarily as a proximate cause of, police gunfire directed at the suspect or the suspect vehicle.
 - b) Police pursuits wherein the suspect vehicle, which is being pursued by police vehicle(s), collides with another vehicle, a pedestrian, or an object, and causes death or substantial risk of death

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

C. “Police Employee”

- 1. This policy applies to employees and to certain other people affiliated with the law enforcement agencies, which are members of this policy agreement, as follows:
 - a) Full-time and part-time members, whether on-duty or off-duty, engaged in a Police function become involved in a crime in progress and acting for a law enforcement agency at the time of the incident.
 - b) Temporary employees and volunteers whether paid or unpaid, who are on-duty or who are acting actually, apparently or purportedly for a law enforcement purpose at the time of the incident. This category includes informants when they are working under the direct control and supervision of a police officer.

D. “Actor”

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

E. “Subject”

- 1. The person who is injured by the act of the Actor, whether or not it is intentional. When used in this policy, this word does not imply existence of criminality; it is used to designate the person who is physically injured.

F. “Proximate Cause”

- 1. A cause, which, in a natural and continuous sequence, produces a fatal injury, or an injury that constitutes a substantial risk of death, without which cause the injury would not have occurred. Reasonable foreseeability of the fatal injury is not a factor relevant to this definition.

G. “Fatal Injury”

- 1. Death

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- H. “Deadly Physical Force”
 - 1. Deadly physical force means force, the intended, natural, and probable consequences of which is to produce death, and which does in fact, produce death.

- I. “Serious Bodily Injury”
 - 1. An injury that poses substantial risk of death

- J. “Venue Agency”
 - 1. State, County or Municipal agencies, within whose geographical jurisdiction the incident occurs.

- K. “Employer Agency”
 - 1. The agency by which the involved police employee is employed or with which he/she is affiliated (In many cases, the Venue Agency will also be the Employer Agency.)

- L. “Criminal Investigators”
 - 1. Those investigators assigned by the Venue Agency(ies), the Employer Agency(ies), the Colorado Bureau of Investigation, the Colorado State Patrol and the District Attorney’s Office to conduct the criminal investigation of the Incident.

- M. “Administrative Investigators”
 - 1. Those investigators assigned by the Employer Agency to conduct the Administrative Investigation of the Incident.

- N. “Member Agencies”
 - 1. The law enforcement agencies, which are members of the CIIT agreement

- O. “Lead Agency”
 - 1. The employer agency of the assigned lead investigator for the incident

IX. INVESTIGATIVE AGENCIES, FORMATS AND RESPONSIBILITIES

- A. To properly recognize and accommodate the various interests and the various rules of law which may be involved in any incident, investigations of these matters must be performed under two separate investigative formats: (1) the Criminal Investigation; and the (2) Administrative Investigation.

- B. The Criminal Investigation:

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1. The Criminal Investigation has investigative priority over the Administrative Investigation and it begins immediately after an incident has occurred.
2. CIIT members will perform the criminal investigation deriving their jurisdictional authority from the venue agency at the request of the venue CEO or their designee. The lead investigator will be assigned from an agency other than the employer agency by the team coordinator. The effected agency may have a representative assist in all other functions but is not required. In the event an agency does not have a representative the team coordinator will act in that function.
 - a) The team coordinator and the lead investigator shall exercise authority over any irreconcilable investigative issues that occur during an investigation.
3. The CIIT's goal is to develop all available relevant information about the incident. This information will be used in two ways:
 - a) To determine the presence or absence of criminal conduct on the part of those involved in the incident.
 - b) And if criminal conduct does exist, determine the degree of the crime(s); the existence of any factual or legal defenses to that crime; and to determine the presence or absence of any factors which would mitigate or aggravate punishment for that crime.
 - c) To incidentally provide factual information to the Employer Agency's management for its internal use (While the Criminal Investigators do not direct their investigative attention to Administrative concerns, it is recognized that the Criminal Investigation's results are of proper interest to Agency Management for its internal use and those results are fully available for that purpose.)
4. The investigation is required to follow the rules of law, which apply to all criminal proceedings including constitutional, statutory and case law regarding rights, which are covered by the United States Constitution's 4th, 5th, 6th, and 14th Amendments.
5. The investigation is performed in a thorough, fair, complete and professional manner, which is free of conflicts of interest.
6. Venue Determination:
 - a) When an incident occurs in two or more jurisdictions, each of those is a Venue Agency.
 - b) When an Incident occurs on the boundary of two jurisdictions, or at a location where the relevant boundary is not

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readily ascertainable or is in dispute, the Venue Agency(ies) shall be:

- (1) The Employer Agency if the Actor is employed by either boundary agency;
- (2) Both boundary agencies if Actors are employed by both;
- (3) The agency which has the greater interest in the case by virtue of having the predominant police involvement in the Incident or by virtue of having had the majority of acts leading up to the fatality occurring within its jurisdiction.
- (4) When death occurs while subject is in custody, the venue agency is the agency having custody of the subject at the time of death, except when death occurs at a certified medical facility (outside of the original venue) the original agency remains the venue agency.

7. Vehicle collision Incidents:

- a) Accidental collision fatalities may be investigated by the CIIT criminal investigators, joined by accident investigation specialists from the Colorado State Patrol or from another member agency. The accident investigation specialists have primary responsibility for documentation, collection and preservation of physical evidence. On-scene collaboration with the crime laboratory personnel is encouraged.
- b) Accident investigation specialists will be used if the fatality results from a collision that was not accidental; or, if the vehicle movement was merely incidental to a fatality, which was caused by non-vehicular means.
- c) The accident investigation specialist's role within the CIIT will not be limited to investigating physical movement of vehicles.

8. Scene Security:

- a) Each Agency has initial responsibility for immediately securing crime scene(s) within its jurisdiction. This responsibility includes preservation of the integrity of the scene(s) and its/their contents, access control, and the identification and sequestration of

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witnesses. Responsibility may be changed by mutual agreement as the investigation progresses.

9. Crime Scene

- a) The Colorado Bureau of Investigation may be selected for documentation of the scene(s) and for the collection, preservation, and analysis of physical evidence.
- b) Any evidence collected from the crime scene will be stored, managed and maintained by the defined CIIT lead agency for the investigation unless impractical, then any other member agency other than the venue agency will serve that role. This evidence will be managed according to the policies and practices of that agency.
- c) Pending arrival of crime scene personnel, responding officers will initiate crime scene security.
- d) Member(s) of the CIIT may be requested by the crime scene personnel to furnish officers to assist with evidence and scene documentation, collection, and preservation. Officers so involved will work in conjunction with the criminalists. Laboratory opinions and analysis will be obtained from a laboratory designated by the CIIT, which could include the Colorado Bureau of Investigation.
- e) Prior to final relinquishment of the scene, the CIIT investigators and the criminalists will provide the Administrative Investigators an opportunity to assess the scene.

10. Notifications

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

- a) Inter-departmental officers, as required by that agency's procedures. To include personal legal representation as dictated by each employer agency's procedures
- b) The Employer Agency, if applicable and if not yet aware.
- c) The CIIT Coordinator or his designee.

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d) CIIT personnel will be responsible for the following notifications:

- (1) The Assistant or Chief Deputy District Attorney.
- (2) The Colorado Bureau of Investigation.

e) For officers involved in vehicular collision deaths, or collisions where there is a substantial risk of death, the Colorado State Patrol or other qualified accident investigator should be notified by CIIT if not already dispatched. Team and Accident Investigators should be called through the Coordinator.

f) The appropriate Coroner's Office, upon confirmation of a fatality, **this is a required notification.**

11. Scene Procedures

a) Emergency life saving measures have first priority.

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

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

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

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

f) Nothing inside the scene(s) shall be moved or removed without approval of the CIIT Coordinator unless absolutely necessary for public or officer safety or for preservation of evidence. If removal without approval is necessary, the removal must be witnessed and logged. The log shall state the identity of the person removing the described object, the reason for removal, a witness to the removal, and the time of removal. The item should be photographed prior to removal.

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- g) If the area is secure, loose weapons or instruments shall be left in place and undisturbed.
- h) Using video recording equipment to record the crime scene is recommended.
- i) A video recorded re-visit to the scene with the involved officers is recommended.

X. INTERVIEWING POLICE EMPLOYEES

- A. It is the intent of the CIIT to only conduct criminal investigations and not become involved in administrative review of officer incidents. It should be made particularly clear to involved officers that Garrity advisements do not apply.
- B. Interviews should be conducted in a sterile setting, void of interruptions or any audio contamination. Video equipped interview-interrogation rooms offer the most viable setting for the interview. Interviews should be videotaped with an audiotape back up whenever possible. Interviews must be audio taped at the minimum.
- C. The Agency administrative review team will be provided with copies of all interview tapes. At the conclusion of the criminal interview, the administrative team can conduct their interview.
- D. The involved officer is to be informed that the interview is non-custodial and that all statements are voluntary. Should there be evidence that there was any criminal intent on the officer's part, either before the interview or during the interview, the officer may be advised under Miranda. Should the officer invoke, the interview will conclude and the administrative review team can proceed under advisement of Garrity. Any incriminating information obtained by the administrative review shall not be disclosed to any member of the CIIT.
- E. The CIIT has no responsibility to contact legal representation or mental health providers. That is the responsibility of the officer or his agency.
- F. The CIIT also has no responsibility to assign or coordinate peer support for the employer agency.

XI. INTOXICANT TESTING

- A. As soon as practical, the involved officer *will be offered the opportunity to take and or* shall be asked to voluntarily submit to a blood/urine test for the CIIT investigation.
 - 1. If probable cause exists and any involved person will not consent to a blood/urine test, and sobriety evaluation is pertinent to the

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investigation of a crime, the involved person suspected of being intoxicated may be compelled to submit to a test under the following statutory violations and under exigent circumstances:

- a) 18-3-105 Criminally Negligent Homicide;
- b) 18-3-106(1)(b) Vehicular Homicide;
- c) 18-3-204 Assault in the Third Degree;
- d) 18-3-205 (1)(b) Vehicular Assault.

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

XII. AUTOPSY

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

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

XIII. THE DISTRICT ATTORNEY'S OFFICE

Attorneys from the District Attorney's Office have the following roles in Incident Investigations:

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

B. Upon completion of the Criminal Investigation, analyze the facts of the Incident, as well as the relevant law to determine if criminal laws were broken. If so, prosecution is possible.

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

XIV. REPORT WRITING

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

B. The lead investigator has the ultimate responsibility for report writing and for collecting reports from other agencies. All reports shall be reviewed by the

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team coordinator or his designee, prior to submission to the CEO and District Attorney

C. Prompt completion and distribution of reports is essential.

XV. NEWS AND MEDIA

A. The venue and/or the employer agency will be responsible for all news media relations.

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

C. Coroner's Office.

XVI. ACCESS TO REPORTS AND EVIDENCE

A. Material that is created or collected by, or at the request or direction of, CIIT Criminal Investigators (including CBI) will be made available in a timely manner to those agencies that have an interest in the investigation, including the Administrative Investigators.

B. The material will include:

1. Reports, written and collected
2. Access to physical evidence (view only)
3. Photograph, diagrams, and video tapes
4. Audio tape recordings

C. When the CIIT and/or the District Attorney's Office concludes that the physical evidence collected by the Criminal Investigators is no longer needed for criminal PROSECUTION purposes; the Employer Agency shall be notified of that decision so it can assume responsibility for preservation of such evidence if it desires.

D. CIIT report archives will be held by an agency designated by the CEOs.

E. All records requests received by agencies participating in a CIIT investigation must be made known to the team coordinator prior to release.

XVII. DEBRIEFING

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- A. At the conclusion of an investigation, there will be a debriefing and critique of actions taken. The purpose of this debriefing will be to ensure a thorough and complete investigation has taken place.
- B. This meeting will also serve as a way to evaluate, and make suggestions to improve the performance of this unique multi-jurisdictional investigative team. All attempts will be made to have the debriefing prior to submission of documents to the District Attorney's Office. This will enable the CIIT's Coordinator to make additional assignments, if deemed necessary by the critique.
- C. It is important to have at least members from the District Attorney's Office, the venue agency, the employee agency (if different from the venue agency), the Coroner's Office, and CBI in attendance. The debriefing will be open to all CIIT members and appropriate command staff from involved agencies. They are encouraged to attend to help keep communications open.
- D. The debriefing will be closed to the media, and all media releases will be in accordance with Section XV of this policy.

As CEO of District Attorney, 7th Jud. Dist. I agree to the 7th Judicial District Law Enforcement Officer Involved Critical Incident Investigation Team Policy and Procedure.

DAN HOLTENPILLER
Please Print Name

Date


Please Sign

08-15-2018
Date