

## PARKER POLICE DEPARTMENT POLICY AND PROCEDURE MANUAL

4.3	EFFECTIVE: August 3, 2012	James Tsurapas, Chief of Police
	REVISED: June 15, 2021	
SUBJECT: COMMISSIONED OFFICER-INVOLVED INCIDENTS INVOLVING DEATH OR SERIOUS INJURY		
CALEA: 1.3.7; 26.3.6		PAGE: 1 of 6

### 4.3.1 PURPOSE

The purpose of this policy is to provide Department members with procedures to follow when a member is involved in a fatal incident or an injury where a substantial risk of death occurs.

### 4.3.2 POLICY

It is the policy of the Department that the Eighteenth Judicial District Critical Incident Response Team (CIRT) investigates any incidents where a commissioned officer of the Department uses, or may have used, or is the subject of the use of deadly physical force; or where there is a substantial risk of death. To properly recognize and accommodate the various interests, the various rules of law, and/or the various Department policies which may be involved in any incident, authority to investigate these matters is given to three separate investigative formats: <11.3.4>

- A. CIRT (Use of Force) investigation;
- B. Criminal investigation/District Attorney's Office; and
- C. Administrative investigation.

Refer to the 18<sup>th</sup> Judicial District Critical Incident Team (CIRT) Protocols. These protocols are also available to the public on the Department website. For commissioned officers who serve on the CIRT, training will be provided for managing such incidents, and all members potentially impacted will have awareness training. <11.3.4 e.,f.>

### 4.3.3 DEFINITIONS

- A. *Commissioned officer-involved fatal incidents* - incident(s) involving two or more people, in which a commissioned officer is involved as an actor, victim or custodial commissioned officer, where a fatal injury or an injury where a substantial risk of death occurs. Such incidents include, but are not limited to, the following:
  - 1. Intentional and accidental shootings, including police tactical incidents involving specialized response teams.
  - 2. Intentional and accidental use of any other dangerous or deadly weapon.
  - 3. Assaults resulting in death or a substantial risk of death upon a commissioned officer, and assaults on other commissioned officers who are on duty or who are acting for a law enforcement purpose.
  - 4. Attempts by a commissioned officer to make arrests or to otherwise gain physical control for a law enforcement purpose.

5. Any fatal injury occurring in police custody but excluding fatal injuries of prisoners while the prisoner is under a 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 a toxic substance.
6. Any fatal injury to a person who is a passenger of a commissioned officer (such as noncommissioned member, riders, emergency transports, prisoner transports, etc.).
7. Vehicular collisions involving fatalities or substantial risk of death:
  - 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 a substantial risk of death.
  - c. Police pursuits wherein the police vehicle collides with another vehicle, or 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 a substantial risk of death occurs, excluding any vehicle fatality which involves off-duty commissioned officers who are not at the time of the incident acting for an actual, apparent or purported law enforcement purpose.

B. *Police member* - this policy applies to members affiliated with the Department. This includes:

1. Full-time commissioned officers, whether on-duty or off-duty employment, become involved in a crime in progress and acting for a law enforcement or a private purpose at the time of the incident.
2. Volunteer commissioned officers who are on duty or who are acting actually, apparently or purportedly for a law enforcement purpose at the time of the incident.
3. Temporary Department members 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 commissioned officer.

#### **4.3.4 PROCEDURE**

- A. Immediately following a commissioned officer-involved incident involving death or substantial risk of death, the following must be done:
1. Notification must be made to the Chief of Police or authorized designee explaining the incident.
  2. Notification must be made to command staff.

3. The Chief of Police or authorized designee will notify the coordinator of the CIRT of the situation and request activation of the team. The team coordinator will be responsible for notification of other team commissioned officers, the on-call deputy district attorney, the appropriate crime lab, and the appropriate coroner's office.

**B. Scene Procedures**

Emergency lifesaving measures have the first priority. The scene must be secured immediately with a perimeter established a sufficient distance away to safeguard evidence. In some circumstances an inner and outer perimeter are appropriate.

1. Pursuant to C.R.S. § 18-1-707(2)(c), commissioned officers shall “ensure that assistance and medical aid are rendered to any injured or affected persons as soon as practicable.”
2. Access to the scene(s) must be limited to only those officials who must enter for an investigative or lifesaving purpose.
3. 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.
4. When not needed for lifesaving efforts, entry by the Fire Authority and ambulance personnel should be restricted to the absolute minimum necessary to perform the needed duties.
5. No items shall be moved inside the scene(s) or removed from the scene(s) without approval of the CIRT and the criminalistics laboratory, unless absolutely necessary for public or commissioned 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, and the time of removal. The item should be photographed prior to removal.
6. If the area is secure, loose weapons or items of evidentiary value shall be left in place and undisturbed.

**C. Public Safety Statement**

The public safety statement is intended to establish the level of danger to the public that may still exist, aid the initial operational response to locate suspects, and focus the initial stage of the investigation. If the involved officer(s) are physically and emotionally capable of providing it, a commissioned supervisor not assigned to the Administrations Division should collect this information as soon as possible. If the involved commissioned officer(s) are not capable of providing a public safety statement due to injury or related reasons, other commissioned officers or witnesses who were present may be able to provide some or all of the pertinent public safety statement information. Questions to elicit this information should be straightforward and limited to details of the incident, including:

1. What type of force was used by involved commissioned officer(s)?
2. What type of threat was presented by other involved parties?
3. Did the involved commissioned officer(s) fire their weapon(s), if so in what direction?

4. Did other involved parties fire any weapons, if so in what direction?
5. Location of any unsecured weapons?
6. Location and description of any known or possibly injured persons?
7. Is there an active public safety threat?
8. Are there any at-large suspects? If yes:
  - a. What is their description and are they armed?
  - b. Is there a vehicle associated?
  - c. What is the last known location and/or what direction did they flee?
  - d. How much time has elapsed since the suspects fled?
9. Any other information that would help ensure officer and public safety and assist in the apprehension of any at-large suspects?

**D. Employee Interviews**

The CIRT only conducts criminal investigations and does not become involved in administrative review of commissioned officer-involved incidents involving death or serious injury. Interviews conducted by the CIRT are for the purpose of investigating whether or not a crime occurred and, therefore, Garrity Advisements do not apply. It is the responsibility of the Department to conduct any administrative investigation.

1. Interviews should be conducted in a sterile setting, void of interruptions or any audio contamination. Interviews should be video, and audio recorded, whenever possible. Interviews must at a minimum, be audio recorded.
2. The CIRT will provide the Department's administrative review team copies of all recordings and interviews. At the conclusion of the criminal interview, the administrative team can conduct their interview.
3. During the interview with the CIRT, the commissioned officer will be advised that the interview is noncustodial and that all his or her statements are voluntary. However, if the CIRT should learn that there is evidence of criminal intent on the commissioned officer's part, the commissioned officer will be advised of his or her rights under Miranda. Should the commissioned officer invoke his or her rights under the Fifth Amendment, the interview will conclude, and the administrative review team can proceed under a Garrity Advisement.

Any information obtained by the administrative review following the issuance of a Garrity Advisement cannot be used by the CIRT.

E. Intoxicant Testing <26.3.6 a.>

1. As soon as practicable, the involved police member shall be asked to submit to urine and blood tests.
2. Department members will be informed that the test is needed, even if probable cause is not present, for the Department member's protection in any civil litigation that may occur in the future. Intoxicant test results are available to the administrative review team.
3. If probable cause does exist and the involved Department member will not consent to urine and blood tests, and sobriety evaluation is pertinent to the investigation of a crime prescribed by the Colorado Revised Statutes, the Department member may be compelled to submit to a test under the following:
  - a. exigent circumstances; and
  - b. administrative employment relationship. If results are obtained under the administrative employment relationship, the results will not be available to the CIRT to prove criminal element.

F. Notifications to Relatives/Next of Kin

1. Pursuant to C.R.S. § 18-1-707(2)(d), commissioned officers shall "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. Notifications for persons who have sustained serious bodily injury should be made by a supervisor or member of command staff.
3. Notifications for persons who sustain death should be coordinated with the Coroner's Office by a supervisor or member of command staff.

G. Access to Reports and Evidence <1.3.7>

1. Material, which is created or collected by, or at the request or direction of, CIRT investigators including the criminalistics laboratory will be made available in a timely manner to those agencies which have an interest in the investigation, including the administrative investigators.
2. The material will include:
  - a. reports, written and collected;
  - b. access to physical evidence;
  - c. photographs, diagrams and video tapes; and
  - d. video and/or audio recordings.

3. When the CIRT and/or the district attorney's office concludes that the physical evidence collected by the criminal investigators is no longer needed for criminal law purposes, the Department will be notified of that decision so it can assume responsibility for preservation of such evidence, if it desires.

H. Debriefing

At the conclusion of an investigation, there will be a debriefing and critique of actions taken, the purpose of which is to ensure that a thorough and complete investigation has taken place. Commissioned officers from the Department, the District Attorney's Office and the CIRT should be in attendance at the meeting so that communications are kept open.

I. Division of Criminal Justice Report

Information shall be collected effective immediately, and reported to the Division of Criminal Justice, commencing January 1, 2023, for any use of force that results in death or serious bodily injury, to include:

- a. The date, time, and location of the use of force;
- b. The perceived demographic information of the person contacted, provided that the identification of these characteristics is based on the observation and perception of the commissioned officer making the contact and other available data;
- c. The names of all commissioned officers at the scene whether or not the commissioned officer used force on the person;
- d. The type of force used, the severity and nature of the injury, whether the commissioned officer suffered physical injury, and the severity of the commissioned officer's injury;
- e. Whether the commissioned officer was on duty;
- f. Whether a weapon was unholstered;
- g. Whether a firearm was discharged;
- h. Whether the use of force resulted in an investigation and the result of any investigation;  
and
- i. Whether the use of force resulted in a citizen complaint and the result of that complaint.