

Critical Incident Review

301.1 GENERAL

At times, Department Members are confronted with situations in which varying degrees of force or actions are used to protect life and property, affect an arrest, or discharging firearms in the performance of their duties. Department Members are also involved in incidents where their actions cause great concern to the Department and general public. Therefore, in the interest of public safety and the safety of Department Members, the Orange County Sheriff's Department shall review critical incidents to ensure best practices are being utilized in policies, procedures, tactics, and training.

As determined by the Sheriff or the Sheriff's designee, critical incidents shall be given the prompt attention of Executive Command Staff utilizing the Critical Incident Review (CIR) process. When directed by the Sheriff or the Sheriff's designee, the S.A.F.E. Division shall begin to coordinate a *Critical Incident Review* meeting as soon as practical.

301.2 PURPOSE AND SCOPE

The purpose of the Critical Incident Review is to identify and discuss issues requiring immediate action and/or additional follow-up. By doing so, it increases the Department's ability to recommend necessary changes to policies, procedures, tactics, and training to assist personnel in dealing with future critical incidents.

The review shall provide to the Critical Incident Review Board and Attendees, a preliminary factual presentation by the most knowledgeable Member associated with the incident. As appropriate, a discussion of potential litigation, policy, training, and equipment issues shall occur and include subject matter experts in those areas. The Board and Attendees shall document these issues requiring further review. Prior to the close of the review, "Action Items (A/I's)" shall be provided by the Board Members on the issues requiring immediate attention.

Additionally, Members who exhibited acts of bravery, courage, and/or exceptional performance shall be discussed and recommendation for the appropriate Department commendation shall be considered.

301.2.1 DEFINITIONS

Critical Incident: any incident where the actions of Department Members in the performance of their duties, are likely to have a significant impact on the Department, community, citizens, or any other person, and/or incidents involving the use of deadly force or force resulting in serious physical injury.

Deadly Force: that which creates a substantial risk of serious bodily injury or death. See Policy 300 - Use of Force sub-section 300.2.

Serious Bodily Injury: A serious impairment of physical condition, including but not limited to the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of

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the function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement (Penal Code § 243(f)(4)). See Policy 300 - Use of Force sub-section 300.2.

Action Items: directives to the responsible Divisions or Members requiring resolution.

301.3 BOARD COMPOSITION

BOARD MEMBERS:

1. Assistant Sheriff of Professional Services Command (**Chairperson of the Board**)
2. Assistant Sheriff of Patrol Operations Command
3. Assistant Sheriff of Investigations & Special Operations Command
4. Assistant Sheriff of Corrections & Court Operations Command
5. Assistant Sheriff of Custody & Inmate Services Command

In order for a more comprehensive and complete review of the incident, additional Members and/or persons shall be invited to attend. For the purpose of the review, they shall be referred to as "Attendees" and shall be able to provide recommendations and/or comments to the Board.

301.3.1 ATTENDEES

1. Executive Command Staff
2. S.A.F.E. Division Representative
3. Training Division Representative
4. Internal Affairs Representative
5. Commander under whose jurisdiction the Critical Incident occurred
6. Captain under whose jurisdiction the Critical Incident occurred
7. Presenter of Facts
 - (a) Person designated to present before the Board all pertinent information, facts, and issues about the Critical Incident.
8. Subject Matter Experts
 - (a) Persons identified who exhibit an advanced level of expertise in performing and/or explaining a specific duty assignment, task, or skill will be considered as, "Subject Matter Experts" (e.g., Drug Recognition Experts, K-9 Handler, Electronic Control Device Instructor, or Arrest Control Technique staff Member).
9. Constitutional Policing Advisor
10. Investigations Representative
11. Field Training Bureau Representative (if applicable)
12. Jail Compliance and Training Team Representative (if applicable)
13. Member from County Counsel*

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**All matters and communications discussed in the review are confidential and protected under the Attorney/Client Privilege; therefore the review will be limited to those Members mentioned-above. Any other Member interested in attending the review, must be approved by the Chairperson of the Board. This shall be based on the reason for the request and "Need to Know" basis, but ultimately decided at the discretion of the Chairperson of the Board.*

301.4 PROCEDURE

The Critical Incident Review process consists of three (3) phases and is overseen by the Assistant Sheriff of the Professional Services Command who is the Chairperson of the Board.

The Chairperson of the Board's responsibility and authority includes, but is not limited to, the following:

1. Authorizes the release of all pertinent documents, records, and information for the Critical Incident Review.
2. Ensures only essential Members are present during the Critical Incident Review.
3. Gives opening remarks and sets the rules or guidelines for the review to the Board and Attendees.
4. Moderator for the review and assists in the transition from each topic of discussion to the next.
5. Reviews all A/I's and approves them for distribution to the responsible Divisions or Member for resolution.

301.5 PHASE I - INITIAL REVIEW

The Command Staff under whose jurisdiction the Critical Incident occurred shall request a Critical Incident Review. This request will be made through the Chairperson of the Critical Incident Review Board. The review will be assigned to the S.A.F.E. Division and the process of coordinating, notifying personnel, and organizing the review shall begin.

The S.A.F.E. Division is the Critical Incident Review liaison and the "Presenter of Facts." They shall facilitate the review board process. The S.A.F.E. Division shall collect all documents, reports, and presentation material/equipment. Notification to Board Members/Attendees, and the scheduling of the review shall be done as soon as practical. The responsibility to prepare and design the presentation for the review shall be the "Presenter of Facts." Therefore, any Department Member or division receiving a request for documents shall comply with the request without delay. The presentation before the Board is designed to give a detailed review of the incident.

At the conclusion of the presentation, the Board shall engage in an interactive discussion on the incident relying on the "Presenter of Facts" and/or "Subject Matter Experts" for clarification. **These discussions shall focus on policies, procedures, tactics, training, equipment and use of force.**

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Upon completion of the discussions, the review shall adjourn and reconvene in closed session (same day) with the **Board Members** and designated Members only. In this closed session meeting, the Board shall list action items for implementation and identify the appropriate divisions or responsible Members to address these action items.

Once the Board Members have identified these action items, the S.A.F.E. Division shall forward an "Action Item Summary" form to the Board Chairperson for approval. Once approved, these action items shall be forwarded to the designated Divisions or Members for resolution and should be completed prior to Phase II of the CIR process (usually within 60-90 days).

301.6 PHASE II - DISPOSITION OF ACTION ITEMS

Phase II of the Critical Incident Review shall reconvene usually within 60 to 90 days of the adjournment of Phase I. The composition of Members involved in this phase of the review shall be comprised of the Board, S.A.F.E./Risk Management Bureau Representative, and the designated Members who were assigned action items, if necessary.

Upon completion of Phase II, the S.A.F.E. Division shall submit a written "Final Summary-Findings and Disposition" report to the Chairperson of the Board for review and final approval. Based on the type of incident reviewed, this shall usually signify the conclusion of the CIR. However, the Board may recommend further review of the incident and decide to convene a Major Incident Review (Phase III).

301.7 PHASE III - MAJOR INCIDENT REVIEW

Whereas, Phase I & II of the Critical Incident Review process focuses on the systemic and global impact of an incident and its immediate impact on the Department, a Major Incident Review (MIR) or Phase III narrows the focus. A MIR is specific to causal factors of the reviewed incident and the individual Department Members involved. This review shall occur upon conclusion of all pending legal and investigative reviews.

301.7.1 PROCEDURE

A MIR may be initiated by the Critical Incident Review Board on those incidents which are deemed by the Sheriff, Sheriff's designee or the review process as significant enough to warrant a further and narrower review of the incident and Members. Reviewable incidents include but are not limited to Members involved in traffic accidents resulting in injury, in-custody deaths, officer involved shootings (excludes negligent discharges), uses of force resulting in death or requiring hospitalization, pursuits resulting in significant injury or property damage, exemplary performance, and the significant utilization of Department resources(e.g. natural disasters and civil unrest).

Should the incident involve a criminal or administrative investigation, the Board shall suspend convening the MIR until all criminal, civil, and any other investigation has been adjudicated.

The Orange County District Attorney's Office serves as the Primary Lead Investigative Agency in cases of: Custodial Deaths, Officer Involved Shootings, and life threatening injuries involving staff likely to cause death. The District Attorney's Office maintains care and control of the investigation

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including: interviews, sketches, forensic reports, and all evidence. A copy of the investigative file from the District Attorney's Office is turned over to the Sheriff's Homicide Detail at the conclusion of the legal and Coroner review. Once this occurs, the Sheriff's Homicide Detail shall notify the S.A.F.E. Division and a MIR is scheduled.

The Board shall examine each incident, issue findings, and/or recommendations for preventative measures. The Board may issue findings and/or make recommendations based on their review of the incident. Findings and/or recommendations may include but are not limited to the following:

1. Commendations
2. Work practices or conditions
3. Training on an individual or group basis
4. Policies and/or procedures
5. Ensuring equipment is adequate and available
6. Ensuring staffing needs are adequate and available
7. Tactics
8. Use of Force
9. Planning for future incidents
10. Administrative Interviews with the involved Members
11. Corrective Action or referral to Internal Affairs Division, if applicable.

The Chairperson of the Board, in collaboration with County Counsel, shall ensure the findings of the Board and all recommendations are submitted, utilizing the designated form, to the Assistant Sheriff(s) of the involved command(s) within 45 days of concluding the review.

301.7.2 S.A.F.E. RESPONSIBILITIES

The S.A.F.E. Division shall coordinate in facilitating meetings, notifications, and providing the results of any Critical Incident Reviews that were conducted. S.A.F.E. shall receive all requests to convene a Major Incident Review and gather all necessary documentation for the Board's review.

S.A.F.E. shall notify the Assistant Sheriff of the Professional Services Command (Chairperson of the Board) of the need to convene a MIR. CIR Board Members and advisory personnel shall be notified of their participation along with the designated presenter of facts for each incident.

As a result of the confidential nature of the review and due to Department Members being involved, only Members identified by the Board shall be permitted to participate in the MIR. All documentation shall be returned to and retained by the S.A.F.E. Division in accordance with the established records retention schedule.

The findings and recommendations of the Board shall be presented to all other Members of the Executive Command staff for discussion and authorization to proceed with the Board's recommendations.

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Depending on the findings and recommendations of the Board, the Executive Command may request further administrative action. Upon conclusion of the Executive Command staff review, all documentation shall be returned to the S.A.F.E. Division for retention.