



**New South Wales
Police Force**

Critical Incident Guidelines

Professional Standards Command

Approved for External Publication

Critical Incident Guidelines

Essential Summary

The majority of incidents to which police respond are managed effectively under normal operational response arrangements and require no special scrutiny.

The NSW Police Force acknowledges the actions of officers in the execution of their duty can, in some circumstances, result in the death of or serious injury to a person. Incidents of this nature are understandably subject to heightened levels of public interest and scrutiny. These incidents are deemed to be critical incidents by the NSW Police Force.

The NSW Police Force is committed to investigating all critical incidents in an effective, accountable and transparent manner. To ensure public confidence is maintained, such investigations are most appropriately conducted independently.

The purpose of this document is to provide the general public with an outline of the key responsibilities of officers who have a role in the police response to a critical incident, and to explain the process that occurs when an incident of this type occurs.

These guidelines are for specific incidents where the police response to an incident is likely to have a significant impact on a member of the public, their family or be of significant community interest. These guidelines do not include full details of all operational responses exercised by officers involved in the investigation of these incidents.

To ensure that instructions to investigating police provide contemporary advice regarding the methodology for an effective investigation, the NSW Police Force maintains a separate internal version of the *Critical Incident Guidelines*.

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1. Commissioner's Message

The NSW Police Force acknowledges the actions of officers in the execution of their duty can, in some circumstances, result in the death of or serious injury to a person. Incidents of this nature are understandably subject to heightened levels of public interest and scrutiny. These incidents are deemed to be critical incidents by the NSW Police Force.

The NSW Police Force is committed to investigating all critical incidents in an effective, accountable and transparent manner. To ensure public confidence is maintained, such investigations are most appropriately conducted independently. Accordingly, the identification of an incident as a critical incident activates an independent investigative process to be conducted by a specialist and independent critical incident investigation team, and a review of that investigation by an independent review officer.

Managing, investigating and reviewing an incident as a 'critical incident' is intended to remove any doubt that might otherwise endure about the integrity of involved officers and provide reassurance that:

- any wrongful conduct on the part of any members of the NSW Police Force is identified and dealt with
- consideration is given to improvements in NSW Police Force policy or guidelines to avoid recurrences in the future, and
- officer welfare implications associated with the incident have been considered and addressed.

These guidelines are a statement that the community can have full confidence, the facts and circumstances of these incidents will be thoroughly examined and reviewed by the NSW Police Force.

These guidelines further embed accountability for the investigation of critical incidents at senior levels of the organisation. In so doing, the community, members of the NSW Police Force and their families can be assured that all critical incidents are handled professionally, with integrity and that the decisions made and processes used are appropriate and reasonable.

A P Scipione APM
Commissioner

2. Scope

The purpose of this document is to provide the general public with an outline of the key responsibilities of officers who have a role in the police response to a critical incident, and to explain the investigative response to incidents of this kind.

To ensure that instructions to investigating police provide contemporary advice regarding the methodology for an effective investigation, the NSW Police Force maintains a separate internal version of the *Critical Incident Guidelines*.

All NSW Police Force employees involved in the management, investigation and review of critical incidents should refer to the internal version of the guidelines and apply those guidelines where operationally appropriate.

3. Definitions and Explanations

3.1 What is a critical incident?

A 'critical incident' is one involving a member of the NSW Police Force which has resulted in the death of or serious injury to a person:

- arising from the discharge of a firearm by police
- arising from the use of appointments or the application of physical force by police
- arising from a police vehicle pursuit or from a collision involving a NSW Police Force vehicle¹
- who was in police custody at the time
- arising from a police operation.

A critical incident may also be any other incident that a region commander considers could attract significant attention, interest or criticism, such that the public interest will be best served by investigating the matter under the *Critical Incident Guidelines*.

3.2 Critical incident categories

Critical incidents are to be categorised as Level 1 or 2 according to the degree of seriousness.

3.3 Level 1 critical incidents

The following incidents **must** be investigated as level 1 critical incidents:

- the homicide of a police officer

¹ For the purposes of these guidelines, all vehicles used by the NSW Police Force will be classified as a 'police vehicle', including but not limited to motor vehicles, motorcycles, helicopters and water-borne vessels.

- any death or imminent death resulting from the discharge of a firearm by a police officer
- any death or imminent death arising from use of police appointments
- any death or imminent death as a result of the application of physical force by a police officer.

All level 1 critical incidents must be investigated by the Homicide Squad, State Crime Command (SCC).

The Homicide Squad will conduct a full investigation of the incident including the events and actions leading up to the incident. It should examine and report on the lawfulness of police action, the extent of police compliance with relevant guidelines, legislation, internal policy and procedures.

Local resources may need to be added to the Homicide Squad investigative team under its control. The Homicide Squad will negotiate with the commander of the geographic region where the incident occurred for these resources to be provided.

The investigation will be independently monitored and reviewed by the Professional Standards Command (PSC).

3.4 Level 2 critical incidents

The following incidents should be investigated as level 2 critical incidents, any:

- attempted homicide of a police officer, including where there are serious injuries sustained (subject to Homicide Squad's response)
- death or serious injury of a person in NSW Police Force custody
- death or serious injury to a person arising from a NSW Police Force operation
- death or serious injury of a person arising from a police vehicle pursuit or from a collision involving a NSW Police Force vehicle
- serious injury resulting from the discharge of a firearm by a NSW police officer
- serious injury arising from the use of police appointments
- serious injury as a result of the application of physical force by a NSW police officer
- incident where there has been the discharge of a NSW Police Force firearm in high risk operational circumstances
- suicide or attempted suicide by a NSW police officer or member of the public resulting from the discharge of a police firearm (subject to Homicide Squad response).

The investigation of a level 2 incident must be conducted by a Critical Incident Investigation Team (CIIT) that is independent of the incident.

The CIIT will conduct a full investigation of the incident, including examining relevant events and actions leading to the incident. The team should examine the lawfulness

of police action, the extent of police compliance with relevant guidelines, legislation and internal policy and procedures.

For incidents involving the death of a person, the region commander and the SCC Homicide Squad Commander must agree within 48 hours of the incident what level of involvement the Homicide Squad will have in the CIIT. Whatever agreement is reached, the Homicide Squad must provide specialist investigative advice for the duration of the investigation.

As it is expected that the CIIT will require region resources, the Senior Critical Incident Investigator (SCII) will notify the relevant region commander what resources are required, and the region will provide the level of resources as agreed.

The investigation will be independently monitored and reviewed by the Professional Standards Command.

3.5 What is a 'serious injury'?

The types of injuries that are likely to be 'serious' enough to invoke an investigation under these guidelines include:

- life threatening injuries
- an injury that would normally require emergency admission to a hospital and significant medical intervention
- an injury likely to result in permanent physical impairment or require long term rehabilitation.

The decision to classify an injury as 'serious' or otherwise needs to be documented at the time of the incident.

While in many incidents the decision to declare an injury as serious will be an obvious one, the source of, and basis for the classification, i.e. opinions of ambulance officers / general or specialist medical practitioners who have assessed or treated the injured person should be recorded.

If the extent of any injury is not clear during the initial stages of managing the incident, it should be classified as 'serious' and the appropriate protocols initiated.

If the injuries are subsequently classified as being non-serious the investigative approach should be re-assessed and if appropriate, the incident de-escalated.

3.6 What is 'imminent death'?

For the purposes of the guidelines, a person will face imminent death if it is the advice of a qualified medical practitioner who has treated the person that the injury is likely to result in the death of the person who has been injured during the incident.

3.7 When is a person 'in custody'?

It has been agreed with the NSW State Coroner, that the term 'in custody' amounts

to a person being under arrest. The term also includes a person who is under the care, protection and responsibility of police officers at the time of the incident.

In circumstances where police are in close contact with and / or attempting to significantly influence or control the person's behaviour, that person may not be in custody, but may be the subject of a police operation.

3.8 Deaths arising from 'police operations'

While the *Coroners Act 2009* does not define a death occurring as a result of, or in the course of a police operation, so as to automatically invoke the Coroner's jurisdiction and require an inquest, region commanders should ensure consultation with the on call Duty Coroner has taken place before determining whether the matter is a critical incident.

Potential scenarios could include:

- any police operation calculated to apprehend a person(s)
- any police siege
- any police shooting
- a high speed motor vehicle pursuit
- an operation to contain or restrain persons
- an evacuation
- a traffic control / enforcement
- a road block
- execution of a writ / service of process
- any other circumstance considered applicable by the Coroner.

3.9 Coroner's role – police operations and search/rescue operations

The Coroner makes a clear distinction between a 'police operation' and a 'search / rescue operation'. Where it is not clear whether a death has occurred in the course of a police operation or a search / rescue operation, the State / Deputy State Coroner and Homicide Squad should be contacted through the Duty Operations Inspector (DOI), so that an appropriate determination can be made. If a search / rescue operation is considered by the on duty State / Deputy State Coroner to be a 'police operation', the region commander must consider if the incident should be classified as a critical incident.

3.10 High risk operational circumstances

High risk operational circumstances are circumstances where the discharge of a police firearm, whether deliberately or accidentally, has occurred due to a police officer being confronted with a threat to their own life, or in the course of protecting the life of a member of the public.

3.11 Mandatory drug and alcohol testing

Officers directly involved in a critical incident may be required to undergo mandatory drug and alcohol testing in accordance with section 211A of the *Police Act 1990*.² An authorised officer from the Professional Standards Command, Drug and Alcohol Testing Unit will attend to complete the mandatory testing of officers. In the event that an authorised Drug and Alcohol Testing officer will be delayed in attending, a local, independent authorised officer may complete the required alcohol tests.

4. Roles and Responsibilities

Police officers involved in the management, investigation and review of critical incidents are assigned the following roles and responsibilities.

4.1 Region commander

The region commander is responsible for determining whether an incident is a critical incident and if so, making a declaration that a critical incident investigation will commence.

As part of the region commander's consideration a determination will need to be made in relation to the most appropriate type and category of incident to ensure that relevant investigative strategies are employed in accordance with legislative requirements.

The region commander also has ultimate responsibility for the management, investigation and review of all critical incidents that have occurred within the geographical boundaries of their region.

The region commander should complete the following actions.

4.1.1 Declaring an incident a critical incident

The primary consideration for a region commander is whether, based on the information available, the incident should be independently investigated and managed as a level 1 or 2 critical incident (see pages 7 and 8 for the definition).

The region commander should obtain and consider all available information to assist in the decision, in consultation with the relevant local area commander of the location of the incident.

It is essential that reasons for commencing, continuing or ceasing a critical incident investigation are documented.

The region commander, local area commander, the CIIT and this SCII should consult and be familiar with the NSW Police Force [Media Policy](#) during the incident.

² In accordance with s82L (4) of the Act, Special Constables may also be required to undergo mandatory drug and alcohol testing

4.1.2 Forming a Critical Incident Investigation Team (CIIT)

The region commander must direct a CIIT to be formed once he or she has decided that an incident will be investigated as a critical incident.

A suitably experienced SCII should be appointed to lead the CIIT until the investigation has concluded.

The CIIT must comprise police officers who are not involved in the incident and who do not appear likely from the outset to have a conflict of interest.

It follows that members of the CIIT should be drawn from:

- a different local area command (LAC) to the one in which the incident occurred, and
- a different command to that of the directly involved officer/s.

4.1.3 Exceptions for remote locations

It is accepted that in some remote locations, the investigation of the critical incident may need to be led by an experienced investigator from the same LAC as that of the directly involved officers or the location where the incident occurred.

The region commander must make this decision and may do so based on considerations such as the need for the preservation of physical evidence, the welfare of directly involved officers and timeliness. The region commander must be satisfied that there is no known conflict of interest that could affect the investigation before making such an appointment.

The size and makeup of the police presence during the initial stages of a critical incident investigation will always be dependent on the nature of the incident and investigative requirements and is ultimately the responsibility of the region commander in consultation with the SCII.

4.1.4 Specialist assistance

For incidents involving the death or serious injury of a person arising from a police vehicle pursuit, or from a collision involving a NSW Police Force vehicle, experienced crash investigators may form part of the CIIT where possible, but will not replace the CIIT.

Crash investigators can provide assistance limited to the investigation and prosecution of dangerous driving matters and associated traffic offences that relate directly to the operation of a motor vehicle.

Similarly, where the incident involves a waterways incident, the Marine Area Command may supplement, but not replace the CIIT.

4.1.5 Monitoring

The region commander should monitor the progress of investigations under these guidelines and set and enforce timeframes and reporting requirements.

4.1.6 Dealing with unrelated offences

The region commander should inquire whether any other offences have been committed by any person(s) that are not to be dealt with as part of the critical incident investigation. The region commander should arrange for a LAC / specialist commander to take over the investigation of these matters, where appropriate.

4.1.7 De-escalating an investigation

The region commander may in some cases determine that a declared critical incident need not continue to be investigated as a critical incident. The region commander may instead direct that the investigation may be undertaken by the LAC in which the incident took place.

While this decision will depend on the individual circumstances, it may be that the seriousness of a person's injuries have been downgraded and there are no public interest or other considerations that warrant the incident continuing to be investigated as a critical incident.

4.1.8 Interim risk management

A region commander may approve interim risk management strategies being implemented at any time during a critical incident investigation. The purpose of these strategies is entirely protective in nature, i.e. of the individual police officer and /or the workplace. The need for such action should be determined as the investigation of the incident unfolds.

Interim management action is not disciplinary in nature and so is separate from any action that could be taken under Part 9 of the *Police Act 1990*.

Interim action is not to be viewed as predictive of the outcome of the investigation for any police officer involved in a critical incident.

The types of interim risk management strategies that may be considered are well established and can range from training through to suspension. The focus of this action is to address and mitigate any risks that are identified or arise during the investigation.

4.1.9 Retraining after use of police issued arms and appointments

Where police weapons or appointments have **actually** been used in a critical incident, the region commander must ensure that the local area command arranges for the officer(s) who have used their arms and appointments to complete their annual mandatory operational safety and

skills training prior to resuming full operational duties, irrespective of whether this training has already been completed during the current training year. 'Used' does not include removing arms and appointments ready for use.

4.1.10 Welfare considerations

The region commander must be sensitive to any welfare concerns that may arise for police officers involved in investigating and managing critical incidents and be satisfied the local area commander is considering and addressing the welfare needs of officers directly involved in, or who are witnesses to the incident (see the local area commander's roles and responsibilities).

4.1.11 Reporting

At the conclusion of the investigation, the region commander should provide a comprehensive report to the Deputy Commissioner, Field Operations. The submission of this document should not be completed until the conclusion of any inquest or court related matters, so as to enable the findings and any recommendations to be taken into account and addressed in the report. The documentation should include the reports from the SCII and the review officer.

Among other matters, the region commander's report should highlight and comment on any conduct issues identified, any broader lessons to be learned from the incident and any proposed or implemented improvements to systems, policies, processes, practices and training. The provision of this document provides assurances that the region commander is fully briefed on the outcome of the investigation and will ensure that any recommendations stemming from the investigation are addressed.

4.1.12 Matters involving a coronial inquest

Prior to the completion of any coronial inquest, the region commander is to ensure that an interim report, detailing the outcomes of the investigation, is provided to the NSW Police Force Executive so any matters arising can be dealt with.

After the conclusion of the inquest, the region commander must ensure a comprehensive manuscript report is provided to the Deputy Commissioner, Field Operations to enable the coronial findings and any recommendations to be considered. The report should be endorsed by the region commander and include the reports from the SCII and the review officer.

The report should highlight and comment on any conduct issues identified, any broader lessons to be learned from the incident and any proposed or implemented improvements to systems, policies, processes, practices and training.

4.2 Local area commander

The local area commander has the following role and responsibilities.

When notified of an incident, the local area commander takes over the management of the incident scene, even before the region commander declares the incident is a critical incident.

In anticipation that the region commander may declare a critical incident, the local area commander should ensure that the first officer is at the scene, there is an incident scene guard and that a duty officer is in place.

As soon as possible after hearing of the incident, the commander should contact the region commander, even if the region commander is aware of the incident. This conversation will help the region commander to assess whether the incident needs to be investigated as a critical incident.

4.2.1 Welfare considerations

Local area commanders must manage the welfare needs of all NSW Police Force employees involved in, or affected by critical incidents and should consider the following information as being part of their role.

Commanders and supervisors are expected to monitor officers' reactions closely following a critical incident. As part of the mandatory call out procedures for critical incidents, the DOI will arrange support for police officers directly involved or witnesses to the incident as soon as possible following a critical incident. This support will usually be provided by a psychologist from the Incident Support team. Depending upon the incident, NSW Police Force psychology staff may also attend.

Meanwhile commanders should arrange to move the directly involved officers away from the scene. Directly involved officers should be separated, but NOT be isolated. The officer should stay with a supportive peer or supervisor and return to the scene only under the instruction of the SCII.

4.2.2 When the investigation commences

The local area commander should explain to all directly involved officers / witnesses at the commencement of the investigation:

- the role of each CIIT member and the type of information they may be seeking
- in broad terms the process to be followed for the investigation and likely timing
- support services available to victims and their families, and
- welfare-related services available to the officer.

4.2.3 Informing the deceased / injured person's next of kin

The local area commander is to personally inform relatives of any deceased person, or to delegate the responsibility to a fully briefed senior officer. The local area commander should ensure all reasonable requests of the family of the deceased, including viewing the body and scene are discussed with the SCII. If possible, arrangements should be made for other family members to be in attendance as a support mechanism, particularly if the deceased is from the Aboriginal or Torres Strait Island community or non-English speaking background.

If the deceased person is determined to be from the Aboriginal or Torres Strait Island community it is important to consider local aboriginal protocols and ensure the requisite notifications are made, e.g. to the Aboriginal Legal Service, Aboriginal Regional Coordinator, Aboriginal Community Liaison Officer (ACLO).

Unless the on duty State / Deputy State Coroner directs, the family of the deceased or their representative have a right to view the body, scene of death, have an independent observer at any post mortem and to have an independent forensic pathologist present at a post mortem. The Homicide Squad, SCC can advise commanders on such matters.

4.2.4 During the investigation

While it is important that the investigation proceeds as quickly as possible the local area commander should take into account the **emotional state** and **fatigue** of the directly involved officer/s during the course of the investigation.

In some circumstances it may be appropriate, to stand the officer down (upon the completion of any mandatory tests), until the officer is able to continue to assist with the investigation. If an officer is stood down, he or she must be directed not to discuss the incident with any other directly involved officer or witness.

4.2.5 Retraining after use of police issue arms and appointments

Where police arms or appointments have **actually** been used in a critical incident, the local area commander must ensure that arrangements are made for the officer/s who have used their arms or appointments to complete their annual mandatory operational safety and skills training prior to resuming full operational duties, irrespective of whether this training has already been completed during the current training year. "Used" does not include removing arms or appointments ready for use.

4.2.6 At the conclusion of the investigation

At the conclusion of the investigative and court related processes, the directly involved officer/s should be advised of the outcomes of investigations. This should be conducted in consultation with the SCII.

4.3 Duty Operations Inspector (DOI)

The DOI, VKG Sydney, will be informed of all critical incidents and is responsible for ensuring the timely notification of all appropriate organisational units and personnel required to conduct the investigation, irrespective of where the critical incident occurred.

This process should be undertaken in consultation with the officer who has command of the incident at that time.

The DOI will initiate the mandatory call out procedures. The region commander will be contacted directly and requested to initiate the call out for the CIIT. For level 1 matters, the DOI will contact both the SCC Homicide Squad.

The DOI is required to confirm with the duty officer, or other senior officer at the scene that the situation constitutes a critical incident and check that the actions required have been initiated.

For matters that are considered to be a death in custody or a death arising from a police operation, the matter will be the subject of a mandatory inquest, presided over by the State Coroner or the Deputy State Coroner. As part of the mandatory notifications, the DOI will notify the on-call Coroner of the matter.

The DOI will maintain contact with the officers at the scene, until the SCII attends and assumes responsibility.

4.4 Duty officer

A duty officer from the LAC where the incident occurred will be required to attend the scene of the incident and assume command of the scene, until relieved by the local area commander or SCII.

If the duty officer is a directly involved officer, a duty officer from a neighbouring LAC should be asked to undertake the relevant roles and functions. In country / remote areas, the next most senior officer in the LAC in which the incident occurred should perform the relevant tasks until relieved by the SCII.

Regardless of where the incident has occurred, the duty officer is responsible for advising the DOI that a critical incident has occurred, including the circumstances and location.

The duty officer will be responsible for managing and coordinating the scene until the SCII arrives. Importantly, it is the duty officer's responsibility to ensure any officer they believe to be a directly involved officer is separated from other directly involved officers or witnesses to ensure that any evidence is preserved.

It is also important that the duty officer ensures the integrity of any physical evidence, police appointments or witness information is protected. The duty officer is to remain in position until instructed by the SCII.

4.5 Senior Critical Incident Investigator (SCII)

For level 1 critical incidents, the SCII will be an officer from the Homicide Squad, SCC. For level 2 critical incidents, the region commander will select the CIIT members according to an established protocol. When a critical incident occurs, the SCII will be notified to assemble the team.

4.5.1 Role

The SCII will lead a team in the investigation of all critical incidents. The primary role of the SCII is to ensure critical incidents are rigorously and thoroughly investigated in a timely manner.

In doing so, the SCII's responsibility is to investigate both the matters that constitute the critical incident itself and the surrounding circumstances. This will include the prosecution of any person for any offence found to have been committed and / or the presentation of a brief of evidence to the State / Deputy State Coroner.

The investigation of any criminal offences that may have been committed outside of the critical incident may be undertaken by local police or a specialist investigation team separate to the CIIT.

These two kinds of investigations will generally be conducted on a parallel basis. While the two investigations may address distinct issues, it is acknowledged that crossovers between the two may occur. How the evidence for the respective investigations is to be obtained in such circumstances should be determined by thorough consultation between the two investigation teams prior to them undertaking this process.

4.5.2 Conflicts of interest – Critical Incident Investigation Team

The probity of the critical incident investigation process is of paramount concern to the NSW Police Force. As such it is important the SCII consider how any conflicts of interest within the team should be identified and managed.

Conflicts of interest can take many forms and include officers having personal or financial relationships with any officers, victims or suspects directly involved in the incident.

Any undisclosed areas of conflict may lead to a perception that the investigation could be affected and have serious consequences, so officers must be encouraged to declare any relevant conflict issues to the SCII both at the outset or whenever they arise.

The SCII should work with the officer concerned to resolve any conflicts of interest including, if necessary, removing the officer from the investigation. Independence is the key to the successful CIIT. No officer should investigate a critical incident with an undisclosed or unresolved conflict of interest.

4.5.3 On receiving notification of a critical incident

On receiving notification of a critical incident, the SCII should ensure the DOI is advised of their name, rank and station and informed of any delays in their arrival time at the scene. The SCII will marshal a Critical Incident Investigative Team and take action to commence the investigation.

4.5.4 Incidents involving a death

On receiving notification that the incident involves a death, the SCII will liaise, via the DOI, with the on duty State or Deputy State Coroner in relation to the matter.

4.5.5 Conducting the critical incident investigation

The role of the Critical Incident Investigation Team (CIIT)

The CIIT will be required to conduct a full investigation of the incident including relevant events and activities leading to the incident. The team should examine the lawfulness of police action and the extent of police compliance with relevant guidelines, legislation, internal policy and procedures. The SCII is responsible for gathering the necessary evidence and for determining the degree of an officer's involvement in an incident. There is a strong public interest in an investigator ensuring all relevant evidence is obtained.

Prosecutions arising from the investigation

The SCII is responsible for ensuring appropriate action is taken concerning the prosecution of any person for any identified offence arising from the investigation. The SCII is also responsible for reporting any management issues that need to be addressed concerning any police officer.

Dealing with misconduct

Where the investigation identifies any criminal or other misconduct, the SCII is required to report the identified conduct to a senior officer, such as the region commander or region Professional Standards Manager (PSC). The SCII must ensure the region commander is appropriately briefed to ensure any identified conduct issues are dealt with as soon as possible and prior to any coronial inquest, unless the Coroner specifically directs otherwise.

Workplace health and safety issues

During the investigation, if any systemic, safety or procedural issues are identified, the SCII must immediately report the issue/s by way of manuscript report via the chain of command so that appropriate timely action can be taken to address the issues.

Serious safety issues identified are to be immediately reported to the Commander, Workforce Safety.

4.5.6 Identifying directly involved officers

The SCII will determine if an officer is to be considered a **directly involved officer** or a **witness**.

A directly involved officer is any officer, regardless of rank or grade, who by their words, actions or decisions, in the opinion of the SCII, contributed to the incident under investigation. An officer who is present, and does not involve themselves in activities which have contributed to the incident occurring is not a directly involved officer. A person's mere presence at the scene is insufficient.

In specific circumstances, identifying an officer as a directly involved officer will result in the officer being required to undergo mandatory drug and alcohol testing pursuant to section 211A of the *Police Act 1990*.³

4.5.7 Interviewing involved officers

It is expected that police officers will provide any information that is in their knowledge to give, in an admissible format, whether or not there is any suggestion of any police misconduct and whether the officer was on or off duty at the time of the incident.

Despite this expectation, police officers, just like any citizen, may exercise their right to silence and may object to answering questions on the basis that they may incriminate themselves.

If the officer exercises their right to silence they **must not** then be compelled to answer the question in respect of which the privilege has been claimed.

4.5.8 Interviewing civilian witnesses

In the initial stages of the investigation taking statements from civilian witnesses, who are willing and able to provide information, is considered to be an appropriate means of gathering information.

Once that information has been collated and considered, where practical, further consideration should be given to conducting question and answer interviews with crucial civilian witnesses, at an appropriate time in the investigation, to clarify information or gather additional material.

The decision to conduct additional question and answer interviews should be made and documented by the SCII. Where it is conducive to do so, electronic interviews with witnesses can be completed at the commencement of the investigation.

³ In accordance with s82L (4) of the Act, Special Constables may also be required to undergo mandatory drug and alcohol testing

4.5.9 At the conclusion of the investigation

The SCII will prepare an investigation report at the conclusion of the investigation and any court related process. The investigation report should include relevant events and activities leading to the incident and comment on the lawfulness of police action, general care, treatment and supervision of the deceased/seriously injured prior to death/serious injury.

4.5.10 Coronial matters

The SCII should also prepare the brief of evidence for submission to the State/Deputy State Coroner, in consultation with the review officer. In circumstances where a criminal charge is to be laid, the brief is to be forwarded to the Director of Public Prosecutions. The Coroner must be informed that indictable charges have been laid. The Coroner will still need to review the brief for his/her purposes, and conduct an inquest, regardless of whether the brief of evidence goes to the DPP.

4.5.11 At the conclusion of an inquest

At the conclusion of an inquest, the SCII will prepare the final investigation report, which will include any comments or recommendations made by the Coroner. The SCII should also organise a formal debrief following any inquest / trial, in consultation with the review officer.

4.6 Review Officer

4.6.1 Role

The review officer is independent from the investigation and performs the function of a risk manager. The review officer is to monitor and review the probity and transparency of the investigation and should not become involved in making investigative decisions or setting investigative directions.

4.6.2 Selection

The Professional Standards Command will nominate a commissioned officer to perform the review officer role.

4.6.3 Responsibilities

The review officer will need to maintain close communication with the SCII during the course of the investigation and discuss any integrity concerns that may arise. If a probity issue is identified (e.g. non adherence to policies or procedures; conflicts or any other issues that may potentially impact the integrity of the investigation) the review officer should raise the matter immediately with the SCII. The discussion should take place in private, away from any witnesses or other investigators. If the matter cannot be resolved, the review officer is required to immediately report the matter via their chain of command for resolution.

4.6.4 Reporting

The review officer should prepare a separate report for the NSW Police Force Executive, providing an overview of the investigation including comments on the quality, timeliness and probity of the investigation conducted by the CIIT. It should identify and report on any deficiencies of a systemic nature that must be addressed by the NSW Police Force.

At the conclusion of the investigation, or in the case of death at the conclusion of an inquest, the reports of the SCII and the review officer are to be provided to the region commander. If the actions / decisions of the region commander are the subject of the investigation, the report should be submitted directly to the Deputy Commissioner, Field Operations.

The review officer should monitor and review the following matters:

- that appropriate notifications were made at the time of the incident
- that there was appropriate control of the incident scene (e.g. log; delegation of tasks; welfare of officers; adequate hand over to the CIIT)
- that there was appropriate crime scene management
- that drug and alcohol testing was conducted in accordance with guidelines
- whether adequate resources were assigned to the investigation and review of the incident
- that no conflicts of interest were identified in the critical incident investigation or that any conflicts identified were appropriately managed
- that the investigation was conducted in a timely manner
- that the quality and probity of the investigation was appropriate
- that the response by the local area command and region was appropriate
- that the *Critical Incident Guidelines* were followed where applicable to the situation.

4.7 First Officer at the scene of a critical incident

The first officer at the scene (the most senior officer, who first arrives at the incident whatever their rank) should ensure the scene is preserved in line with standard crime scene management processes (refer to [Police Handbook](#)).

The first officer at the scene will be required to remain at the scene until relieved by the duty officer, SCII or local area commander.

4.8 Critical Incident Scene Guard

The incident scene guard's role is to secure and preserve the integrity of the incident scene. These duties are consistent with the preservation of a crime scene, which include action to:

- secure the scene of the incident
- maintain the security of the scene
- prevent entry by unauthorised people
- record details of people entering or attempting to enter the scene in their notebook, including the time and reason for entry
- identify and record details of any officer removed from the scene and the reason
- assist the crime scene investigators by seeing they are not disturbed unnecessarily by unauthorised people seeking entry to the location.
- remain in position until relieved by the SCII.

4.9 Region Professional Standards Manager

4.9.1 Critical incident investigation

The region Professional Standards Manager (PSM) may play a coordination role representing the region commander and implementing the protocols for the region when a critical incident has been determined.

4.9.2 Critical Incident Database

In relation to the critical incident database, each region is responsible for:

- data input regarding level 1 and level 2 critical incidents that occur within their geographical region
- ensuring ongoing regular updates of database information regarding the status of critical incident investigations for their geographical region
- conducting an analysis of and endorsing critical incident recommendations.

4.10 Commander, Professional Standards Command

The Commander, Professional Standards Command (PSC) is the corporate spokesperson for critical incidents and is responsible for ensuring that accurate and timely advice is provided to both the Commissioner and the Commissioner's Executive Team (CET) for matters relating to critical incidents.

PSC is also responsible for corporate issues including:

- briefing CET on key aspects of critical incidents as appropriate

- maintaining a central corporate database of all critical incident investigations
- maintaining and reviewing these guidelines
- providing on call advice on best practice for the management and investigation of critical incidents, including advice on determining whether officers should be considered to be witnesses or directly involved officers
- providing on call advice for any issues that may arise at the scene of a critical incident that are in dispute.

PSC is also responsible for the unit conducting mandatory drug and alcohol testing under Section 211A (2A) of the *Police Act 1990*.

4.10.1 Critical Incident Database

The Professional Standards Command will maintain a database of all critical incident investigations. The database will incorporate information relating to the nature of the incident and any recommendations arising from the investigation.

In relation to the critical incident database, PSC will be responsible for:

- providing overall administrative governance of the database
- facilitating information regarding investigative and coronial recommendations with corporate implications
- data input of recommendations made to the NSW Police Force by the NSW Coroner.

As outlined above, regions will contribute to the database and are responsible for:

- data input regarding level 1 and level 2 critical incidents that occur within their geographical region
- ensuring ongoing regular updates of database information regarding the status of critical incident investigations for their geographical region
- conducting an analysis of and endorsing critical incident recommendations.

4.11 Records management of critical incident investigation files

Critical incidents have the potential to attract a high level of public scrutiny. For this reason it is important to ensure record keeping is maintained to a high standard both throughout the investigative phase and post investigative.

At the conclusion of the investigation and after the conduct of any inquest:

- the SCII will report on the outcomes of their investigation

- this report and a copy of the brief of evidence will be forwarded to the reviewing officer who will produce their review report the reviewing officer will forward both reports to the region commander
- the region commander will complete their report and forward all three documents to the Deputy Commissioner, Field Operations.

The movement of these documents will be tracked through the NSW Police Force Records Management System.