

DEPARTMENT OF HUMAN SERVICES
OFFICE OF CHILD WELFARE PROGRAMS

CHAPTER 413
DIVISION 017

CRITICAL INCIDENT REVIEW TEAM (CIRT) AND
DISCRETIONARY REVIEW

Updated 10/1/2019

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CRITICAL INCIDENT REVIEW TEAM AND DISCRETIONARY REVIEW

413-017-0045

Purpose of a Critical Incident Review Team

(Adopted 10/1/19)

- (1) The purpose of assigning a CIRT is to increase child safety by:
 - (a) Rapidly drawing lessons from a *critical incident* to improve systems administered by the Department;
 - (b) Increasing the Department's accountability to the public;
 - (c) Evaluating and learning from cases designated as *critical incidents*;
 - (d) Ensuring timely responses by the Department with respect to a *critical incident* and recommendations that result from the *critical incident* reviews;
 - (e) Increasing the Department's ability to address and recommend necessary changes to systems.
- (2) Reviews conducted as provided in these rules are in addition to and separate from reviews conducted by a county Multi-Disciplinary Team pursuant to ORS 418.747, a State Fatality Review Team pursuant to ORS 418.748, or activities related to documented Department processes for notification and review of child fatalities.

413-017-0050

Definitions

(Amended 10/1/19)

Unless the context indicates otherwise, the following definitions apply to OAR chapter 413, division 017.

- (1) "Child" means child as defined in OAR 413-015-0115.
- (2) "Abuse" means abuse as defined in OAR 413-015-0115 of a *child*.
- (3) "Child protective services assessment" means CPS assessment as defined in OAR 4130-15-0115
- (4) "Critical incident" means an incident that resulted in the death of a child if the Department reasonably believes the death was the result of child abuse and:

- (a) The deceased *child* was in the *custody* of the Department at the time of the fatality; or
 - (b) The deceased *child*, the deceased child's *sibling*, or any other *child* living in the household with the deceased *child* was the subject of a *CPS assessment* by the Department within the 12 months preceding the fatality; or
 - (c) The *child*, the child's *sibling*, or any other *child* living in the household with the *child* had a pending child welfare or adoption case with the Department within the 12 months preceding the fatality; or
 - (d) The deceased *child*, the deceased child's *sibling*, or any other *child* living in the household with the deceased *child* was the subject of a report of *abuse* made to the Department or a law enforcement agency within the 12 months preceding the fatality, whether the report of *abuse* was closed at screening or assigned for *CPS assessment*.
- (5) "Critical Incident Review Team (CIRT)" means a designated committee, assigned by the Department director, to conduct an executive review of a *critical incident*.
 - (6) "Custody" means legal custody as described in ORS 419B.373.
 - (7) "Department" means the Oregon Department of Human Services.
 - (8) "Designated Medical Professional" means Designated Medical Professional as defined in OAR 413-015-0115.
 - (9) "Indian Tribe" means Indian Tribe as defined in OAR 415-115-0000.
 - (10) "Sibling" means sibling as defined in OAR 413-030-0000

Stat. Auth.: ORS 418.005, 419B.024

Stats. Implemented: ORS 418.005, 419B.024

413-017-0070

Assigning a CIRT

(Amended 10/1/19)

- (1) The Department director or designee must assign a CIRT every time a fatality is determined to be a *critical incident*.
- (2) The Department must assign a CIRT no later than the earlier of:
 - (a) Ten days after the Department becomes aware of a fatality that the department reasonably believes is the result of child abuse; or

- (b) Seven days after the Department causes an investigation under ORS 419B.020 to be made into the nature and cause of a fatality when the department reasonably believes the fatality is the result of child abuse
- (3) Membership of a CIRT:
- (a) CIRT members must include:
 - (A) The director or a deputy director of the Department;
 - (B) The Child Welfare director or Child Welfare deputy director;
 - (C) A representative from the Department's Office of Communications.
 - (b) CIRT members may include:
 - (A) An attorney from the Department of Justice assigned to provide legal advice and representation to the Department on the matter of the *critical incident*;
 - (B) A CPS Program Manager or designee;
 - (C) A CIRT Coordinator
 - (D) Members of the public as appropriate;
 - (E) A juvenile court judge appointed by the Chief Justice of the Oregon Supreme Court;
 - (F) A member of a local citizen review board established under ORS 419A.090 whose service area does not include the location where the *critical incident* occurred;
 - (G) A state Senator appointed by the President of the Senate and a state Representative appointed by the Speaker of the House of Representatives. A state Senator or state Representative is ineligible for appointment to a CIRT if:
 - (i) The *critical incident* occurred in the person's district;
 - (ii) The person had prior contact with or knowledge of the deceased *child* or the deceased child's family;
 - (iii) The person is a family member of any person associated with the case.

- (H) The District Manager for the county in which the *critical incident* occurred;
 - (I) The Program Manager for the local Child Welfare office in which the *critical incident* occurred;
 - (J) Child Welfare supervisors assigned to supervise the caseworkers involved in the identified case;
 - (K) The Department supervisors assigned to supervise Department personnel responsible for certification or licensing, if the incident involved a *child* living in a home certified by the Department or an agency licensed by the Department; and
 - (L) A representative of an *Indian tribe*;
 - (M) A *Designated Medical Professional*;
 - (N) Other Department personnel as appropriate.
- (4) Once a CIRT has been assigned by the Department Director, it cannot be recalled. If the Department's investigation into the *critical incident* results in a finding that the report of child abuse is unfounded or cannot be determined as described in ORS 491B.036, the Department shall prepare and submit a final CIRT report as required under ORS 413-017-0085.
- (5) The Department must immediately make the following information regarding the *critical incident* available on the Department's public website:
- (a) The date of the *critical incident* and the age of the deceased child;
 - (b) Whether the child was in the custody of the Department at the time of the *critical incident* or the fatality;
 - (c) Whether there was an open CPS assessment under ORS 419B.020 regarding the child at the time of the *critical incident* or the fatality;
 - (d) The date the Department assigned the CIRT;
 - (e) The due date for the CIRT's final report.

Stat. Auth.: ORS 418.005, 419B.024
Stats. Implemented: ORS 418.005, 419B.024

413-017-0080
CIRT Functioning
(Amended 10/1/19)

Functioning.

(1) CIRT members must:

- (a) Review all information and records available to the Department regarding the *critical incident*.
- (b) Maintain the confidentiality of information and records provided by the Department and only disclose the information or record as may be necessary to carry out the purposes of a CIRT's case review.
- (c) Attend CIRT meetings in person, telephonically, or by other two-way electronic communication.
- (d) Not designate an individual to appear for a meeting on a member's behalf.
- (e) Conduct a case review and investigation focusing primarily on the history of the safety and well being of the *child* who was involved in the incident that led to the fatality and any other children who may be impacted by the circumstances surrounding the incident;
- (f) Document and make a part of the record of the case review all the team conclusions and decisions.

(2) A CIRT may:

- (a) Meet when one or more members are absent.
- (b) During its review, include or consult with the District Attorney from the county in which the *critical incident* occurred pursuant to ORS 419B.024 as amended by Oregon Laws 2017, chapter 469.
- (c) After submission of the final report and upon conclusion of any criminal investigation or prosecution arising out of the *critical incident*, meet with members of law enforcement that investigated the *child* fatality or with the prosecuting attorneys who prosecuted the case, to review the conclusions and recommendations of a CIRT and the submitted reports.

Stat. Auth.: ORS 418.005, 419B.024
Stat. Implemented: 418.005, 419B.024

413-017-0085
CIRT Final Reports
(adopted 10/1/2019)

- (1) Each CIRT must submit a final report to the Department and share the report to the Department's public website.
 - (a) Timelines for the final report:
 - (A) The final report must be submitted to the Department no later than the 100th day following the date the Department appointed a CIRT.
 - (B) The Department must publish the final report on the Department's website no later than 10 days after the department receives the report from a CIRT.
 - (C) The Department director has the discretion to extend the timeline for sharing the final report to the public website when:
 - (i) The report, even if modified, will compromise a law enforcement agency investigation; and
 - (ii) The public interest does not outweigh the potential consequences of disclosure.
 - (b) When sharing the final report has been delayed, the Department must provide the following information on the public website:
 - (A) The status of an expected publication date for the final report;
 - (B) Any information the Department determines will not compromise a law enforcement agency investigation;
 - (C) Any information that does not require redaction.
- (2) Components of a CIRT final report.
 - (a) CIRT final reports must be written in a manner that respects the dignity of the *child*, the child's family and those involved in the *critical incident* case and must also include:
 - (A) The date the Department first became aware of the *critical incident* and, if different, the date the *critical incident* was assigned for a *CPS assessment*;
 - (B) A description of the *critical incident*;

- (C) The *CPS assessment* disposition specific to the *critical incident* as required in ORS 419b.026 and the date the disposition was determined;
 - (D) The date the Department's director or designee assigned a CIRT;
 - (E) The date a CIRT submitted the final report to the Department;
 - (F) Whether members of the public were appointed to a CIRT;
 - (G) The number of meetings held and dates of the meetings;
 - (H) The number of participants at each meeting;
 - (I) A description of all Department contacts related to the *critical incident* including all contacts with the deceased *child*, the deceased child's siblings or the deceased child's parents, foster parents or other caretakers.
 - (J) A description of relevant alleged abuse of other children in the deceased child's home at the time of the *critical incident*;
 - (K) A description of relevant prior Department reports regarding the deceased *child*, deceased child's siblings or the deceased child's parent, foster parents or other care takers which must include including:
 - (i) A summary of the specific nature of any abuse allegations;
 - (ii) A summary of the Department's assessment activities related to any allegations of abuse;
 - (iii) The disposition of the reports, including whether the reports were assigned for assessment or investigations.
 - (L) A description of any concerns the team has regarding actions taken or not taken by the Department or law enforcement agencies in response to the *critical incident* or events that led to the *critical incident*.
- (b) A CIRT final report must not include:
- (A) Confidential information that may not be disclosed to the public pursuant to state or federal law; and
 - (B) The names of any person assigned to the team or any personally identifiable information regarding any person involved in the *critical incident* case, including but not limited to employees of the Department, the Oregon Health Authority or law enforcement.

413-017-0095

Discretionary Review

(Adopted 6/19/2018)

When a CIRT is not required under OAR 413-017-0060 and ORS 419B.024, and the Department has received a report of *abuse* that has resulted in a *child* fatality or serious physical injury of a *child*, the Department director or designee has the discretion to order an internal review of the incident.

Stat. Auth.: ORS 418.005, 419B.024

Stat. Implemented: 418.005, 419B.024