



**DEATH OR SERIOUS INJURY IN POLICE
CUSTODY**

Standard Operating Procedure

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	In Use
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Appendix 'B' Former Dumfries and Galloway Constabulary (Division 14)	N
Appendix 'C' Former Fife Constabulary (Division 8)	N
Appendix 'D' Former Grampian Police (Division 1 and 2)	N
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1. PURPOSE

- 1.1 This Standard Operating Procedure (SOP) provides guidance to police officers and police staff when responding to and investigating Death or Serious Injury in Police Custody.
- 1.2 [The Police and Fire Reform \(Scotland\) Act 2012](#) established the Police Investigations and Review Commission (PIRC). This SOP seeks to define the roles of the police and the PIRC in dealing with deaths or serious injury of individuals in police custody.

2. LEGISLATION

- 2.1 [Section 64 of the Police and Fire Reform \(Scotland\) Act 2012](#) introduces Section 41B into the [Police, Public Order and Criminal Justice \(Scotland\) Act 2006](#). Section 41B provides that a “serious incident involving the police” may be investigated by PIRC. This includes instances of death or of serious injury to a person in police custody and is further held to apply where:
 - The person, at or before the time of death or serious injury, had contact (directly or indirectly) with a person serving with the police acting in the execution of that person's duties; and there is an indication that the contact may have caused (directly or indirectly) or contributed to the death or serious injury; and,
 - Any other circumstance in or in consequence of which a person has otherwise sustained a serious injury at a time when the person was being detained or kept in custody by a person serving with the police; or a person serving with the police has used a firearm or any other weapon of such description as the Scottish Ministers may by regulations specify.
- 2.2 A serious injury should be considered as:
 - Any fracture;
 - Deep cut;
 - Deep laceration or injury causing damage to an internal organ or the impairment of any bodily function.
- 2.3 Chapter 7 of the Manual of Guidance on the Police Use of Firearms provides Post Deployment procedures where police officers have discharged weapons and persons have been killed or injured.

3. THE ROLE OF CROWN OFFICE AND PROCURATOR FISCAL SERVICE

- 3.1 The Procurator Fiscal (PF) is responsible for directing investigations into death in police custody, or following police contact or where serious injury has occurred during a period of custody or during police contact and there is inferred criminality. Under the direction of the PF the PIRC will investigate ‘Deaths or Serious Injury in Police Custody.’

- 3.2 Lord Advocate's Guidelines currently state that:
- “In the event of a death in custody the District Fiscal should consult the Area Procurator Fiscal as to the extent of investigation required into the death. At this stage the Area Procurator Fiscal should consider whether the death may be as a result of criminal conduct by the police and should instruct such investigation as he/she thinks appropriate”.
- 3.3 It is imperative that the PF is contacted at the very early stages of a death in police custody or in circumstances where the police have had direct or indirect contact with the deceased prior to the death. The decision as to whether the death is one which requires independent investigation lies entirely with the PF. If the death occurs out of office hours, the on-call PF should be contacted at the earliest opportunity. Where there is to be an independent investigation the on-call PF will contact the on duty PIRC investigator.

4. THE ROLE OF THE POLICE INVESTIGATIONS AND REVIEW COMMISSION (PIRC)

- 4.1 Any death in custody **must** be reported to the PF. It should also be reported to PIRC, however it should be noted that PIRC only has a power to investigate such matters whereas the PF is under a duty to do so.
- 4.2 All deaths following police contact must therefore be immediately referred to the Procurator Fiscal (PF) to ensure the requirement for an independent investigation is considered at the earliest opportunity. If the death occurs out-with normal office hours the on-call PF must be notified and briefed as soon as possible. **This is the responsibility of the SIO.**
- 4.3 The decision to instruct PIRC to investigate lies firmly with the PF. The on-call PF will make contact with the PIRC to give direction regarding the investigation.
- 4.4 Once the PF has been notified and has decided that it will be a PIRC investigation the SIO should contact the PIRC without delay. A 24hr on-call number for PIRC is held on each Command and Control system.
- 4.5 The investigation will continue by the police until the PIRC is in a position to take over the enquiry although the expectation is for the early establishment of communication between the SIO and PIRC.
- 4.6 The responsibility for securing evidence and taking appropriate action in an investigation remains with the police until such times as the PIRC has taken over the investigation. This includes identification, preservation of scenes and productions.
- 4.7 Early contact with the PIRC is essential. Any requests or direction from the PIRC at this stage should be recorded by the SIO in a policy file.

- 4.8 Where a serious injury occurs to a person in custody, or following police contact, and there is no immediate evidence of criminality and no likelihood that the person will succumb to their injury, the Professional Standards Department (PSD) must be notified.
- 4.9 The PSD will assume responsibility for assessing whether the incident should be referred to the PIRC and will be responsible for notifying the PIRC.

5. INITIAL ACTIONS AND OPERATIONAL CONSIDERATIONS

- 5.1 Procedures at the locus and subsequent investigation should be conducted as though investigating a crime to ensure that the full facts are established. Further guidance can be found in the [Crime Investigation SOP](#).
- 5.2 Police officers or staff are not qualified to pronounce a person as dead. Upon the discovery of any person in custody, even if they are suspected to be deceased, then urgent medical assistance will be sought and, in most instances, this will result in the attendance of the Scottish Ambulance Service. The decision to subsequently contact a Health Care Professional (HCP), to pronounce life extinct, will be at the discretion of the investigating officer although it is expected that this will occur on every occasion.
- 5.3 An SIO will be appointed in such enquiries and will provide the liaison with PIRC throughout their investigation
- 5.4 At the outset of such an incident, the senior SIO on-duty will be informed immediately and will assume initial control of the investigation.
- 5.5 Notification of the death to next of kin should not be delayed until after PIRC have been notified. The responsibility for notifying the next of kin lies with the police.
- 5.6 In every instance of a death in custody a Family Liaison Officer (FLO) will be deployed in accordance with the [Family Liaison SOP](#). This provides support for the family and ensures that they receive all the relevant information connected with the enquiry, subject to the needs of the investigation and relaying any questions from them to the SIO.
- 5.7 The feelings and privacy of the family should be a consideration throughout the process along with cultural and religious sensitivities.
- 5.8 The PIRC may elect to deploy their own FLOs, however; it may be that, for logistical reasons, a police FLO will require to be deployed in the initial stages. Discussions and careful negotiations will take place between the PIRC Senior Investigator and the SIO; ideally an independent FLO will be deployed.
- 5.9 The use of Community Advisors and the support and guidance they may offer to the FLO, SIO and PIRC should be considered.

- 5.10 This would be particularly beneficial when dealing with families of persons with protected characteristics to gain a better understanding of cultural sensitivities and requirements at times of bereavement.
- 5.11 Deaths following police contact attract considerable media interest. It is important to stress that within an independent PIRC investigation the media and investigative strategies are for the PIRC Senior Investigator to determine and progress in conjunction with the Procurator Fiscal and senior police commanders. Consideration should be given to the formation of a Gold Group in order to manage the community impact and support the investigation.
- 5.12 Involving the community at an early stage will lessen the impact of a Critical Incident and provide a bridge between the police and the deceased's family and the wider community. There must be regular contact between the police and PIRC until the conclusion of the incident which will assist in this process.
- 5.13 The SIO may wish to consider conducting a Community Impact Assessment. Guidance is available in the [Community Impact Assessment SOP](#).
- 5.14 Officers and staff involved in the situation may, dependent on circumstances, be requested to submit themselves to a medical examination and there might be a requirement for their clothing and other police equipment to be seized as a production pending the outcome of the investigation / Fatal Accident Inquiry. The reason for a medical examination and clothing / equipment seizure should be fully documented. There must be regular and ongoing liaison between the PIRC and the Police.
- 5.15 Where the death occurs within the custody environment the following are points for the Custody Officer to consider (albeit not exhaustive). Many of these will also apply should the death occur at hospital, the deceased having been taken there whilst in custody:
- Call for urgent medical assistance and ensure that all other prisoners and staff are well to ensure that no adverse environmental event has caused the death;
 - Preserve the custody area (in particular the cell, where appropriate) as a potential crime scene and immediately contact the on-duty senior detective officer who will adopt the role of SIO;
 - Close off the custody area to any new arrivals and make alternative arrangements for custodies;
 - Make arrangements for a controlled transfer of other prisoners, however they will be potential witnesses and this will only be done in consultation with the SIO;
 - In the case of serious injury where there is inference of criminality, where possible, a Police Officer(s) not involved in the incident or directly responsible for the detention or arrest of the person should accompany the custody to hospital;
 - **Do not** close down the deceased's Prisoner Processing Record and await direction from the SIO;

- Custody Closed-Circuit Television (CCTV) **must** be allowed to continue recording until otherwise directed by the SIO (see also [Care and Welfare of Persons in Police Custody SOP](#) for guidance on obtaining stored images);
- Ensure the welfare requirements of custody staff and arresting officers are met, however, they will be witnesses and should not be relieved from duty until an operational statement has been written and permission is given from the SIO. This will however be determined on a case by case basis, in some circumstances, it may not be possible to obtain operational statements nor indeed advisable. It should also be detailed that officers have the right to seek advice prior to providing an operational statement.

6. REPORTING PROCEDURE

- 6.1 Whenever a 'Death in Custody' occurs, the Senior Supervisory Officer on duty within the Local Policing area concerned is to provide a verbal report of the circumstances **without delay** to the relevant Deputy Chief Constable or, outwith duty hours, to the On-Call Assistant Chief Constable.
- 6.2 The initial sudden death report will be submitted in the normal manner to the appropriate Procurator Fiscal by the police. Reference may be made to the [Sudden Deaths SOP](#) This report must also be forwarded to the PSD and PIRC at the earliest opportunity. The report on the circumstances surrounding the incident will be compiled and submitted by PIRC.

7. POST MORTEMS FOLLOWING A POLICE CONTACT DEATH

- 7.1. The SIO should advise the PIRC representative at a very early stage of the post mortem (PM) arrangements.
- 7.2. The PIRC will be responsible for deciding who will be in attendance at the PM. A decision may be taken that the police will not be present.

8. LITIGATION

- 8.1 The Superintendent (PSD) will, in conjunction with Legal Services, consider any potential liabilities for PSoS and if legal representation is necessary or appropriate at any subsequent matter.
- 8.2 Where a fatal road traffic collision occurs following a vehicle pursuit, post incident management guidance is provided by Road Deaths Manual In such cases, the PIRC must be notified, however, the PF will direct who will conduct the investigation into the death.

9. STAFF WELFARE

- 9.1 Any death following police contact will also require an assessment of the internal impact within PSoS, in order to provide support and reassurance to those involved.
- 9.2 Contact should also be made with a representative of the Police Federation or the appropriate staff representative body. This is a support mechanism, and contact should be made with the Federation by PSD as soon as practicable.
- 9.3 Consideration should be given to appointing a Divisional Liaison Officer to deal with welfare issues of the Officers involved in the investigation and affording officers the opportunity to have take part in a critical incident debrief. A critical incident debrief is confidential and encourages those involved to talk through their feelings, emotions and experiences relative to the incident within the group situation and in a structured way.

LIST OF ASSOCIATED LEGISLATION

- [The Police and Fire Reform \(Scotland\) Act 2012](#)

LIST OF ASSOCIATED REFERENCE DOCUMENTS

- Care and Welfare of Persons in Police Custody SOP;
- Crime Investigation SOP;
- Family Liaison SOP;
- Community Impact Assessment SOP;
- Sudden Deaths SOP.

GLOSSARY OF TERMS

FLO –	Family Liaison Officer
HCP –	Health Care Professional
PIRC –	Police Investigations and Review Commissioner
PSD –	Professional Standards Department

INFORMATION FOR INCLUSION IN THE PROCEDURAL REVIEW OF A DEATH IN POLICE CUSTODY

The following, albeit not exhaustive, are headings of information which may be considered for inclusion when compiling a procedural review into a death in custody. At each stage, procedural failings or learning points should be highlighted and later summarised in a separate accompanying report.

Deceased: full personal details of deceased and relevant information regarding next of kin and immediate family.

Loci: description of locus, including relevant areas of enquiry such as availability of CCTV, potential for door to door, etc.

Operational Circumstances: comprehensive chronological summary of police involvement in incident and interaction with the deceased.

Civilian Witness Version of Events: a brief summary of the relevant points from each witness statement.

Police Witness Version of Events: as above.

Medical Evidence: a brief summary of the evidence of all medical practitioners in chronological sequence including post mortem.

Custodial Arrangements: where applicable and should include a full breakdown of custody record, care plan and actions of custody staff and synopsis of custody CCTV, where available.

Force Policy and Procedures: the extent to which force policy and procedure on custody matters was followed.

Further Enquiry: where applicable

CCTV: synopsis of available evidence

CCTV / Video Stills and Photographs

Forensic Examination: summary of relevant findings.

Staffing Levels: the adequacy of staffing levels in the custody area while detainees were held there.

Restraint Techniques

- Use of handcuffs on detainees during arrest;
- Use of handcuffs on detainees in custody or hospital;
- Use of any other restraint methods during arrest or whilst in custody.

House to House

Next of Kin/Family: subsequent dealings and evidence gathered, use of FLO, etc.

Summary of Findings: Concludes the report.

Documents which should be Considered as Relevant Attachments:

- Sudden Death Report;
- Copy of Death Certificate;
- Post Mortem Report;
- Copy of Force Form (Death in Police Custody);
- Crime Reports;
- Storm Incident/ Ambulance control incident/contact centre recordings;
- Hospital documentation;
- Prisoner Processing Record/Audit Log for deceased and all persons held in custody during relevant time period;
- Previous convictions;
- Casualty Surgeon's examination form;
- Press cuttings;
- Copy of Production Schedule;
- Statements of **all** witnesses;
- Use if required, otherwise delete and update index accordingly.