Road Death Investigation Manual
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FOREWORD

Approximately 3500 people die on the roads in the UK every year. Road traffic collisions account for more sudden, violent and horrific deaths than any other cause. About four times as many people die in road crashes each year than are victims of homicide.

Dealing with road death is core police work, and it is the view of ACPO that national criteria should exist to enable the whole police service to work to a consistent standard of professional investigation.

The Manual seeks to achieve this. It provides practitioners at all levels with guidance, sound advice and safeguards to ensure that every life lost on our roads is investigated thoroughly and effectively. It is based on our perception that there are very few 'accidents' on our roads and that most are caused by human error.

There is a recognition nowadays that in many circumstances the investigation of a road death is equivalent in complexity to that of homicide - indeed many road deaths should be treated by police as homicides. This Manual has therefore been written with the intention of complementing the ACPO Murder Investigation Manual, and it should be seen as forming a suite with it. Road death investigations should have a working knowledge of both documents.

It is our intention that this Manual will further the interests of justice by assisting the police to deal fairly, impartially and thoroughly with road death. In accordance with our wish for openness the Manual is publicly available - we are happy to be held accountable to it.

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This manual has been produced as a result of extensive consultation within the police service and with other agencies.

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INTRODUCTION

Every year nearly 3,500 people are killed on the roads in Great Britain. Additionally a further 320,000 are injured of which 38,000 are serious.

The human and emotional costs of this carnage cannot be quantified. However, the economic costs to the community are in excess of 12 billion pounds per year.

Although statistics show that the United Kingdom has a road safety record amongst the best in the world, those statistics will never bring any comfort to the bereaved or those struggling to rebuild lives shattered by injury.

Article 13 of the European Convention on Human Rights (ECHR) suggests that ‘when an individual dies in suspicious circumstances’ there is a requirement that the police conduct a ‘thorough and effective investigation capable of leading to the identification and punishment of those responsible and including effective access for the relatives to the investigatory procedure’. (Kurt v Turkey (1999)

This manual aims to standardise the way in which the Police Service investigates road deaths and serious injury collisions. The intention is to serve justice and to provide support for victims fairly and impartially, without prejudice and regardless of race, gender, ethnic origin, religion, culture, age, disability, sexual orientation, nationality or place of abode.

This manual is complementary to the Murder Investigation Manual but it also takes account of the special circumstances which require consideration when investigating road traffic collisions.

The aims of all investigations are as follows:

- Investigate fatal and serious collisions to the highest possible standard.
- Ensure that families of victims are provided with the highest level of support from trained officers dedicated towards the provision of family liaison.
- Provide a documented ‘investigation plan’ during every incident, ensuring each investigation is:
  - managed effectively by trained officers
  - adequately resourced
  - thoroughly and impartially investigated
  - monitored to ensure effectiveness.
- Provide the necessary support to all personnel involved in an investigation.

This manual consolidates the many good practices already adopted by police forces and investigative agencies throughout the United Kingdom and provides a definitive document to assist all those involved in the investigation of a road death. It is a dynamic document and will be amended as and when necessary.
STATEMENT OF INVESTIGATION STANDARD

The Police Service should aim to:

- Apply roles of Senior Investigating Officer, Investigating Officer, Family Liaison Officer and Collision Investigator to every road death investigation.
- Investigate the circumstances thoroughly and impartially, recording and documenting all information.
- Ensure the investigation is planned and structured and that all information received is actioned and investigated.
- Ensure that urgent inquiries are conducted so as to establish quickly and accurately the identity of any person fatally or seriously injured in a road collision.
- Ensure the identity of any vehicle and offender involved is quickly established and evidence is identified and secured at the earliest opportunity.
- Investigate all incidents as ‘UNLAWFUL KILLINGS’ until the contrary is proved.
- Ensure the next of kin are traced and that a trauma message is delivered in an accurate, caring and professional manner.
- Carry out identification procedures to the legal satisfaction of Her Majesty’s Coroner, whilst respecting the varied wishes of next of kin, close relatives and/or friends.
- Ensure the next of kin are offered support, by trained officers, throughout their ordeal and advised of other options for longer care.
- Ensure all parties are provided with appropriate levels of information, whilst taking care that the progress of the investigation is not impeded.
- Offer appropriate care to those members of the Police Service who become involved in the trauma of the investigation of road death.
- Ensure that the highest levels of evidence are presented to the Coroners and Criminal Courts.
- Ensure the term ‘victim’ is used to describe any person killed or injured as a result of their involvement in a collision, where investigative practices under the terms of this manual are applied.
- Ensure the investigation takes full account of issues relating to race, gender, ethnic origin, religion, culture, age, disability, sexual orientation, nationality or place of abode.
- Ensure the investigation takes full account of vulnerable persons whether that vulnerability be caused by learning difficulties, trauma, or any other circumstances.

Although the term ‘road death’ is used throughout this manual, the same procedures and investigative practices could be applied to any incident at the discretion of an SIO.
1. The Investigation Team

The following roles should be considered during the investigation of every collision involving a fatality, potential fatality or life changing injury.

- Senior Investigating Officer (SIO)
- Investigating Officer(s)
- Family Liaison Officer (FLO)
- Collision Investigators.

1.1 Senior Investigating Officer (SIO)

The rank, qualifications and skills of any officer chosen to be the Senior Investigating Officer in a road death investigation will be a matter for each Police Force. Regardless of the rank, the community will expect the same level of professionalism and expertise together with a high degree of accountability.

Most investigations into fatal and serious collision will necessitate the need for a traffic supervisor to perform the role of SIO. Individual forces will have in place systems for appointing officers to the SIO function; this will typically be a sergeant or inspector. However, circumstances may require a more senior officer to perform this role.

All officers performing the role of SIO should be adequately trained and regularly updated, to equip them to perform this function.

Even when it becomes apparent there has not been an unlawful killing or other culpable act, the community, and particularly any bereaved, will need to be assured that the investigation into any death is properly investigated, managed and resourced.

The role of the SIO is to be the leader, providing investigative focus, motivation for the team and to be accountable for every facet of the enquiry, whilst managing a whole host of specialist resources to maximum effect.

The final responsibility for evidence produced during an investigation lies with the SIO. However, some evidence such as collision investigation reports must only be checked by suitably qualified supervisors.

1.1.1 Policies and priorities

One of the most important aspects of any investigation into road death is the systematic recording of SIOs policies. The recording of why various lines of enquiry were pursued, or why they were not pursued, is critical and the detailed recording of the decisions and the reasons for making each decision should be a matter of course.

It is widely recognised throughout the Police Service the important role the policy file plays in any major crime investigation. The policy file should accurately reflect the important strategic and tactical decisions made by SIOs as
they relate to the investigation. The SIO should make use of a policy file in all cases, mindful that it is the definitive record upon which he or she will rely when subsequently asked to account for decisions at:

- Magistrates’/Crown Court
- Inquests
- Other judicial proceedings
- Reviews
- Complaints proceedings.

Policy files should be used to record strategic policy decisions. It is not an action book although potentially controversial individual actions and the policy leading to them may be recorded. It may also be helpful to record options that were considered, used or rejected and the reasons why.

The use of the policy file is the subject of ACPO Crime Committee guidelines issued in 1998, and is summarised in ‘Appendix A’. The current ACPO guidelines recommend that the SIO construct the policy file using the following broad headings:

- Investigation set up.
- Enquiry management.
- Lines of enquiry.
- Finance and administration.
- Sensitive issues.
- Policy issues for any linked investigations.

Suggestions for the opening of the policy document are:

- A brief chronology of events surrounding the investigation.
- The overall aims at the time.
- A list of influences that may affect the ability to achieve the stated aim.

The need for the SIO to constantly share the contents of the policy file with both management and the enquiry team cannot be overstressed. It is recognised good practice for the SIO to share the details of the policy file at briefings where it can be easily viewed by all staff.

The SIO must adopt a disciplined approach to planning the investigation and this should be reflected in the policy file.

The SIO also has absolute responsibility for the management of all personnel involved in the investigation, including the Family Liaison Officer, who is an integral part of the investigation.

The SIO must ensure all evidence is thoroughly examined and disseminated at an early stage to ensure the highest evidential value has been obtained from all information gathered.
The SIO will attend the scene of all incidents where a road death has occurred or where a fatality is a possibility, ensuring the provision of scene management to the highest possible standard using all available resources.

Critical incident de-briefing and de-fusing should be considered in every case. This will particularly apply to all personnel attending fatal and serious collisions especially those who attend them on a frequent basis. It may also apply to others less directly involved such as control room operators.

It is suggested that the SIO constructs the investigation plan considering the following broad headings:

- The scene.
- Collision investigation.
- Witness identification.
- Suspect identification (where necessary).
- Forensic science.
- Arrest.
- Interview.
- Media.
- Family liaison.

The SIO will need to determine the appropriate time to hold briefings and case conferences. These allow investigating officers to understand clearly the direction of the enquiry and the rationale behind the SIOs policy and decision-making processes.

Figure 1 below illustrates the many different roles and responsibilities an SIO may have to contend with.
1.1.2 Case review

To enable each incident to be evaluated for effectiveness, a system of review should be considered during every investigation.

Many of the issues discussed will result in policy decisions being made and it is imperative that such decisions are recorded within the policy document.

Regular reviews will help in such a way as to provide a clear audit trail of decision-making. It also provides the SIO with the opportunity to discuss progress and options and to agree the overall direction and resources of an investigation. The primary objectives of a review are to:

- provide an ongoing analysis and interpretation of investigative practice and evidence
- provide a standardised and cost effective means of improving police performance during a road death investigation.

The benefits are regarded to be:
- provision of support to the SIO
- adherence to force policy
- improved investigative performance through input/advice from all involved
- improved police performance through identification and sharing of good practice
- improved individual performance through identification of development opportunities
- reduced likelihood of concluding an incident too early or too late
• reduced likelihood of problems escalating to the detriment of the investigation
• reduced likelihood of costly reinvestigation
• reduced likelihood of litigation
• increased public confidence in the integrity and ability of police investigators.

1.2 Investigating Officers

All officers carrying out any role during the investigation of a road death will be classified as Investigating Officers, who are responsible to the SIO. Investigators must be aware of the SIOs policy and ensure it is carried out.

The role of the investigator encompasses numerous disciplines. All actions performed and information received must be recorded accurately. In essence those officers used for patrol activity and unused to long term investigations will be required to work in an unfamiliar environment. One early consideration for the SIO is how officers may react in this environment coupled with the early identification of those suitable to remain within it.

Ideally, investigating officers should possess:

• good investigative skills
• be investigative interview trained
• have an ability to work with minimum supervision
• have a disciplined approach to the work of the enquiry
• have a good knowledge of the legislation base the enquiry is working to.

The identification process involved in choosing an investigating officer should not solely be determined by which officer was first on scene or initiated the first report.

1.3 Family Liaison Officer

One of the most important factors for the SIO to consider is providing an appropriate level of support for and liaison with the bereaved family. This support begins with the delivery of the death message and providing the information the family needs immediately. Either the officer delivering the death message or the family liaison officer should give the family the Home Office booklet ‘Advice for bereaved families and friends following a death on the road’ (which is supplied free of charge to the police service) and the leaflet ‘When Sudden Death Occurs – Coroners and Inquests’. The trauma associated with such a sudden, unexpected tragedy is immense and the needs of the investigation may make heavy demands for information on other members of the family who may have been involved. In many cases the public interest generated by the incident and the resulting death may mean that the media will make additional demands upon the family. For these reasons it is recognised as good practice to appoint a Family Liaison Officer (FLO) to work with both the SIO and the family to
provide support and information. If for any reason families do not want an FLO to be appointed their wishes should be respected.

### 1.3.1 FLO Main strategic issues

*Figure 2 - FLO Main strategic issues*

#### 1.3.2 Selection of Officers

The role of Family Liaison Officer will always require those performing the role to act with the highest degree of professionalism and, most importantly, to carry out those duties with sensitivity towards the bereaved family.

The early appointment of a nominated officer is essential. In some cases the role of the FLO demands that a great deal of time will be expended during the first phase of the investigation. Careful consideration should be given to the suitability of the officer in whom the following qualities are desirable:

- be investigative interview trained
- good interpersonal skills
- good communication and listening skills
- good understanding of issues relating to race, gender, ethnic origin, religion and culture
- confident and self-assured
- able to cope with stress
- good knowledge of appropriate law, police procedures and force structure
- good knowledge of the procedures following a death
- good knowledge of the impact of sudden and violent death and the effects of bereavement
- able to compile brief, clear, and accurate records
- able to cope with multiple tasks and high workloads and prioritise effectively
- able to work with minimal supervision
• flexible and non-judgmental
• understand the principles of stress management
• good knowledge of professional and voluntary support services.

The SIO, in appointing an FLO, may need to consider such matters as gender, ethnic background or age. If for example the deceased is from a minority or vulnerable group, consideration should be given to the use of an officer with specific knowledge of the community involved. The importance of an understanding of the beliefs and customs of the deceased’s relatives by the FLO cannot be understated.

The role of FLO is now recognised as being a specialist role in its own right and many forces now provide training to officers who have been selected to carry out the role. Such practice is highly recommended.

1.3.3 Working with the family

The FLO manages police involvement with the bereaved family on behalf of the SIO. It is imperative the FLO should not be allowed to feel in any way isolated or abandoned. Close contact must be maintained between the SIO and the FLO and there should be regular briefings and debriefings between the two. This will not only help to maintain the contact but will also prove to be an effective conduit for the passage of information in both directions.

Officers are reminded that when dealing with a bereaved family they refer to the victim by their proper name (e.g. Mr, Mrs, your husband, son, daughter) and not by the word ‘deceased’ as this may cause unnecessary upset.

From the first briefing with the FLO, the SIO should set the strategy for dealing with the victim’s family. This should, of course, be reflected within the SIO’s policy file where applicable. The FLO should be clear about the objectives sought, which may include:

• keeping the family fully up to date with the developments of the investigation
• in some cases obtaining full family background and other relevant details as directed by SIO
• ensuring the investigation is not compromised by the unwise disclosure of information
• providing support both through the FLO and other agencies such as Victim Support Schemes. (See Appendix ‘B’)

In carrying out their duties, the FLO will be required to achieve a number of tasks that may include those listed below:

• Establish and maintain lines of communication with victim’s family.
• Obtain and record information from the family in accordance with SIOs instructions (by use of a family liaison log).
• Update the family regularly as to the progress of investigation and any subsequent legal proceedings as directed by SIO.
• Provide and explain details of any literature used.
• Provide order, stability, structure and support in a compassionate manner.
• Keep records of contacts and information exchanged.
• Attend all briefings and debriefings.
• Obtain where possible witness statements from the family.
• Maintain role as evidence gatherer.
• Involve or utilise other agencies to assist the family in developing that relationship.
• Facilitate other external support from the Coroner’s officer, undertakers, bereavement counsellors, community or religious leaders.
• Advise the family regarding inquest formalities and other procedures following such a death.
• Advise the family regarding the law, police and court procedures.
• Ensure the family has realistic expectations of investigative and judicial processes and provide information regarding complaints procedures.
• Contribute to the protection of the families dignity.

Throughout the investigation, any breakdown of communication which leads to the family wishing to speak to police through an intermediary should be referred back to the SIO for advice.

The SIO should take a leading role in dealing with the family and in ensuring the FLO is provided with appropriate support. This response should be immediate and sympathetic and continue throughout police involvement with the family. The ethos of the liaison with the family should be one of openness. Information should only be withheld or questions not answered if a very good reason exists. In such cases the family should, if possible, be given an explanation. Whether or not an explanation is given, it is recommended that the reason for any non-disclosure be recorded, the appropriate place being the policy file.

In rare cases, it may be necessary to strike a balance between the ethos of openness and the risk of compromise to the integrity of the investigation (for example, when a member of the victim’s family is under suspicion). In such cases it may be advisable to consult with the Crown Prosecution Service.

In contentious cases, information should not be released to the family without the authority of the SIO. In all cases the SIO must always be informed as soon as possible, of any information given to the family. These considerations emphasise the need for the SIO and the FLO to meet regularly, to have clear lines of communication as well as the keeping of a policy file and log in which the strategy and details of the liaison are recorded.

Media interest, particularly at a local level, can be high. The SIO and FLO must be on hand to exploit any investigative advantage of the family being exposed to
the media, whilst protecting the family from unwarranted media intrusion. The family should be encouraged to discuss media issues with the FLO before each and every contact with the press. Likewise, the FLO should forewarn the family of any press releases or other media contact on the part of the police. It is important the family understands the SIO’s media strategy and it will benefit all parties if the family have developed trust in, and respect for, the honesty and integrity of the FLO. The SIO and the FLO should be familiar with the ACPO Media Guidelines, which are reproduced at Appendix ‘C’.

The role of a FLO is not to act as a counsellor. It is imperative that consideration is given to the early involvement of other agencies. Details of relevant professional and voluntary organisations are given at Appendix ‘B’. It is desirable that the FLO, the SIO and any other agencies which may be used, familiarise themselves with their respective roles and responsibilities.

It will be necessary to develop a strategy to exit from the family since a time will come when the objectives of the FLO will have been achieved. Reference should be made to the ACPO Family Liaison Strategy.

1.3.4 Cultural considerations

Consideration should be given (if appropriate) to the language of the family and the use of an interpreter. The officers dealing with the bereaved should be briefed on any religious/cultural requirements and these should be followed, unless there is a good reason for not doing so. If this is the case, a record should be made in the policy file and, where possible, an explanation given to the family. It is imperative that the bereaved continue to have access to an interpreter throughout any subsequent court proceedings.

The fears and wishes of the community at large should be acknowledged throughout the course of an investigation and any subsequent court proceedings. The community may be an invaluable source of information and advice and may be able to assist with any subsequent traffic calming/collision prevention schemes. Consideration should also be given, at the earliest opportunity, to the use of lay advisers who can inform the investigation in areas such as the needs of the bereaved, witness appeals and the use of open source/community intelligence. The lay advisers should be carefully chosen. They may well be taken from any lay advisory panels which are already in existence in a particular force area. The investigating officer should liaise with the local beat officer as they may have valuable background information. They may also be able to assist with witness appeals, have access to community intelligence and may be able to give advice on cultural matters.

1.3.5 Family liaison post-investigation

The role of the FLO may continue after the enquiry has concluded, regardless of whether or not anyone is to appear in court as a result of an investigation.
In all cases where a prosecution follows the FLO should continue to support the family. At this stage their responsibilities should include:

- familiarising the family with the courts, their proceedings and possible outcomes
- managing the possible and actual impact of key evidence, especially of expert witnesses
- accompanying the family throughout the proceedings either at criminal or at Coroner’s court
- advising the SIO of any potential or actual intimidation of witnesses
- liaison with other agencies such as magistrates and crown court schemes.

In cases where a driver has failed to stop or where, for some other reason, the suspect has not been identified or found, the family should not feel that the police have ended their investigation. The FLO in conjunction with the SIO should explain to the family that police will always act upon new information and that the case will be regularly reviewed. Although the level of contact will be scaled down, the continuing involvement of the FLO may be of benefit.

The following outcomes may have different effects upon the role and responsibilities of the FLO:

- the offences prosecuted not being as serious as the family had wished
- the penalty imposed not being as heavy as the family had wished
- the lack of prosecution of any person
- the verdict of the coroner.

In the first two of the above outcomes, a thorough understanding of the relevant law and the issues particular to the case under investigation are essential in order that a careful explanation of the process by which the outcome was reached can be given to the family. Such an explanation is only possible if the close working relationship between the SIO and the FLO, as recommended above, has been adopted.

There may be several reasons for the last two of the above outcomes, the most common being the deceased’s own responsibility for the actions which led to their death. In any cases where such outcomes may be reached, the SIO and the FLO should develop a strategy to address any issues that may arise.

In cases that result in an appeal or a judicial review, the contact with the family may be protracted. Whilst the police role ends with the conclusion of the criminal investigation and court process or the Coroner’s verdict, the family may pursue a claim through the civil courts and, in doing so, may rely upon evidence that has been provided by the police investigation. The SIO should formulate a strategy to deal with any enquires that may result.

Working with a family can often be demanding and stressful. The FLO can become emotionally affected by performing the role especially in prolonged and
difficult investigations. It is important to the ongoing welfare of the FLO that they attend debriefing sessions with occupational health advisors. Individual forces should have systems in place for this purpose.

1.4 Collision Investigation

Collision investigation is the use of physical and mathematical techniques to evaluate physical evidence at the scene and what witnesses have seen. Much of this investigation is dependant upon the amount of information that can harvested from the scene itself. It is always better to record the location of items of doubtful worth than to discount them immediately.

The skills provided by a Collision Investigator are invaluable and they should be involved in the investigation of every road death. SIOs should be aware of the ACPO protocol on the training of Collision Investigators, which is reproduced at Appendix ‘D’.

Where a police service is unable to provide a suitable level of skill from within its own resources, consideration should be given to obtaining the services of a Collision Investigator from another force.

The acquired evidence from every source may prove or disprove certain theories and provide the clear direction any investigation should follow.

It should be borne in mind that the evidence obtained from any collision investigation or vehicle examination may form the principle line of evidence in any criminal case or subsequent civil proceedings.

1.4.1 Collision Investigators

Whilst the SIO has overall responsibility for making decisions in relation to the scene and the deployment of these specialists is a matter of force policy, the services of a qualified Collision Investigator and Vehicle Examiner should always be considered for every fatal or potentially fatal road collision.

The role of the Collision Investigator is:

• to assist the SIO in identifying the full extent of the scene(s)
• to assist the SIO to ensure that all scenes are secured to prevent, as far as is possible, the loss of evidence
• to advise and keep updated the SIO so that informed decisions can be made concerning continuing road closures
• to record and evaluate available evidence
• to ensure, in consultation with the SIO, that the scene is adequately recorded by photographic or video means
• to liaise with the SIO and prepare such reports as appropriate.
2. Road Death Investigative Model

2.1 The model

Each part of the model at figure 3 is explained below. Some issues are explained in other chapters for convenience.

For the purposes of this manual, fatal or potentially fatal collisions should include all those involving life-changing injuries resulting from a collision on the road.

Not all collisions will necessitate a full investigation. Often it is the case that only one vehicle is involved resulting in the death of the driver alone. From the outset such a case may not necessitate the full weight of a major investigation. However, any loss of life and serious injury deserves to be investigated carefully and professionally even if no criminal proceedings are brought. Indeed, even a collision where only one vehicle and its driver is involved should not be discounted as an ‘accident’ until all investigative avenues have been exhausted.

At no time should an SIO be constrained to follow the model strictly. It should be used as a guide, considering each section in turn. However, if the model is followed in its logical sequence most investigative avenues will be covered and the investigation should have clear outcomes.

This manual also embraces the concept of precipitating and contributory factors.

It must be remembered that any charge must be the end result of evaluating all available evidence. The investigation must not be driven by looking for a particular offence as this may lead to missed opportunities of gathering the full facts.
Notification of Incident
What immediate police response is required? Number & type of response. Record & disseminate information.

Identify & secure the scene

Narrow/widen scene as necessary

If hit & run or suspicious circumstances, instigate major enquiry (refer to Murder Investigation Manual).

Full scene investigation.
What expert response is required? (CIU, SOCO, CID, Photos, FSS, TRL, Coroner, exhibits, vehicle examiner, Pathologist). Identify precipitating & contributory factors (witness statements, house to house enquiries CCTV etc). Hold scene conference as necessary. Gather evidence.

Subsequent examinations. Post mortem, vehicle exam, tachographs, computers.

Post scene considerations
Case conference. SIO policy file, early CPS advice. Critical incident de-brief as necessary. Assess available information in collaboration with other relevant specialist advisors (AIU, SOCO, CID, photos, FSS, exhibits, vehicle examiner, pathologist).

Information volunteered from outside the investigation.

What does the investigation now know?
What else does the investigation need to know? Identify what further information is required and where it can be found. (DVLA, PNC, CCTV etc). Interview suspects (PACE, PEACE) and witnesses. Complete ongoing enquiries.

Is the investigation Human Rights compatible?

NO

Charge, summons, caution, NFA, etc. (Time limits)

Enter post charge investigation process. Complete case papers. Disclosure.

Hearing. (Magistrates’, Crown, Coroner’s court).

YES

Enter case maintenance/review process


Disseminate essential remedial information not fundamental to investigation.

Case maintenance/review identifies new viable line of enquiry.
2.2 Pre-scene

Figure 4 - Pre-scene issues

As in the notification of any incident, initial police actions are very important. The correct logging of any information no matter how trivial by control room staff, or indeed any other person, can save the investigation time and effort in the long term.

2.2.1 Critical information required

Consideration should be given to the collection and collation of the following information:

- name, home address and telephone number of informant
- first account of informant
- precise details of location of scene
- vehicle identification
- details of other witnesses/persons present at scene.

In cases where the caller attempts to remain anonymous, every effort should be made to discover their identity. If however they terminate a telephone call, steps should be taken to establish its origins. The call records and tapes of other emergency services should identify caller numbers for investigative purposes.

Control room staff and individual force policies should guide immediate police response.

The model at Figure 5 below illustrates a methodical approach to any incident. Time taken here can save time elsewhere.
2.2.2 Survey, assess and disseminate

Figure 5 - SAD CHALET

<table>
<thead>
<tr>
<th>SAD CHALET</th>
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<tbody>
<tr>
<td><strong>Survey</strong></td>
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<tr>
<td><strong>Assess</strong></td>
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<tr>
<td><strong>Disseminate</strong></td>
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<tr>
<td><strong>Casualties</strong></td>
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<td><strong>Location</strong></td>
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<tr>
<td><strong>Emergency services</strong></td>
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<td><strong>Type &amp; Time-scales</strong></td>
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The information contained in figure 5 above should be disseminated as necessary. Where appropriate, the procedures relating to the mnemonic ACE CARD as set out in the Standard National Motorway Manual should be adhered to.
2.3 The scene

Figure 6 - The scene

2.3.1 Identify, protect and secure the scene

The integrity of the investigation is of prime concern and officers must recognise the fundamental importance of preserving what should initially be treated as a crime scene, until proved otherwise. This will be achieved by taking the following steps:

- identify the scene
- protect the scene
- secure the scene.

2.3.2 Identify the scene

The identification of the scene is a priority. All personnel who originally attend the collision site tend to be drawn to the obvious location of vehicles and debris. This may only be part of the scene and therefore early consideration must be given to redefining the scene parameters. This can be achieved by walking beyond the initial scene or by utilising witness testimony or aerial assistance. Once the scene is realised to be larger than the initial site, redeployment of resources and securing the secondary scene boundaries will become priorities in themselves.

2.3.3 Protecting the scene

The personal safety of police officers and other emergency personnel when first attending the scene of a collision cannot be overstated. The standard National Motorway manual states, ‘Frequently, the police are the first emergency service to arrive but first aid should not be rendered to injured persons until the scene has been fully protected. Thereafter police should assist casualties within the limits of their first aid abilities’.
Dependent upon the circumstances, there will always be a wide range of methods available to secure scenes. Some of the most commonly used are:

- tape, starting with a widely defined area to allow the SIO the best chance of securing all available evidence
- individual officers – (beware that contamination issues may arise if this option is used)
- vehicles
- road closures and diversions
- temporary fencing.

In certain circumstances it may be necessary to call on the services of the local highways authority or Highways Agency to assist with road closures. Often this work will be sub-contracted. If road closures and diversions are delegated to other agencies then it is advisable to ensure they have good working practices as part of force risk assessment audits.

The power to stop vehicles comes from section 163 Road Traffic Act 1988 and Section 35 which gives police officers a general power to direct traffic, and the offence of failing to comply with a signal given by a constable engaged in the regulation of traffic. The power to close roads and create diversions is found under Section 67 of the Road Traffic Regulation Act 1984 which states that ‘a constable, or a person acting under the instructions of the chief officer of police, may place on a road, or on any structure on a road, traffic signs (of any size, colour and type prescribed or authorised under section 64 of the Act), indicating prohibitions, restrictions or requirements relating to vehicular traffic, as may be necessary or expedient to prevent or mitigate congestion or obstruction of traffic, or danger to or from traffic, in consequence of extraordinary circumstances; and the power to place signs conferred by this subsection shall include power to maintain a sign for a period of 7 days or less from the time when it was placed, but no longer’.

If lawfully placed signs are interfered with which causes danger to other road users the then section 22A of the Road Traffic Act 1988, ‘Causing Danger to Road Users’ should be considered.

### 2.3.4 Secure the scene

The physical securing of a scene may sometimes seem near to impossible. Nevertheless consideration should be given as to who is allowed into the scene and the use of defined entry and exit points should be considered, in order to limit disturbance.

Following the identification of the scene it may become apparent that some of the emergency vehicles are positioned on top of or are close by to potential evidence. Through liaison with the other emergency service personnel and collision investigators, redeployment of vehicles may be required.
Many of the emergency service personnel will treat the scene as an ‘accident’ and may not treat it as a scene of crime. The preservation of a scene is one of the primary responsibilities for police. The first officers on scene must do all that is possible to prevent:

- M movement of exhibits
- E evidence being obliterated
- A additional material being added
- L loss of evidence.

*Any available resource should be used to protect the scene.*

An early check should be made to establish that all casualties have been found. This is essential at night when a person or vehicle might have been thrown off the carriageway or where persons are trapped in wreckage.

### 2.3.5 Preservation of life

Having secured the scene, police personnel have a fundamental responsibility to save life. This may be by the appropriate application of first aid or may involve the protection of the scene.

Reference should again be made to the individual force risk assessments concerning scene management, especially with regards to the risk of communicable diseases from contact with casualties.

It is vital at this early stage to communicate effectively the casualty figures to force control rooms, in order that additional emergency service resources can be deployed to the scene as necessary.

*Whilst the saving of life is a fundamental duty, the maxim “THINK EVIDENCE” is also relevant, when considering the disturbance of the scene. SIOs should be resolute in withstanding pressure from others to open roads prematurely where such roads should be considered as crime scenes.*

When treating or comforting casualties, what is said may be understood by the casualty even though they may appear not to be lucid. The use of graphic language should be avoided.

When any victim is moved from the scene to the hospital the identity of the ambulance crew, together with the details of the hospital, should be established. Ideally, an officer should travel to the hospital with the victim to provide evidence of continuity. (Beware of cross contamination.) If it is not possible to send an officer from the scene, another means of ensuring continuity should be used.

The ability to deal with the scene of a road death effectively and ethically is of paramount importance. A full investigation cannot take place if the scene is not fully identified or if it is poorly managed. The ability to remain objective, focused and calm is of vital importance.
All collision investigations, especially those involving death or serious injury, should follow the same pattern and incorporate the good practice illustrated by the Road Death Investigative Model shown at Figure 3.

2.3.6 Managing the scene

The SIO has overall responsibility for making decisions regarding the scene. Consideration should be given to the following:

- evidence
- surface marks on the road – these may be hidden by other vehicles and should be identified, preserved and marked where possible
- debris – do not move debris unless it is absolutely necessary and in any case mark its position
- a record of the weather, road and driving conditions made upon arrival – these can change rapidly and these observations will benefit the subsequent investigation
- landing of a helicopter
- body fluids on surfaces which can, in some cases, be used to identify persons involved in the collision or even position them at the point of impact (All officers should guard against coming into contact with body fluids)
- all items recovered from the scene (Items not needed for evidential purposes should be recovered by a suitable contractor)
- a final search to ensure no victims or evidence is missed.

2.3.7 Preventing escalation

The overall control of the scene involving a road death will remain the responsibility of the police. Each force should have in place its own contingency plans to prevent escalation of an incident.

Having established what appears at first sight to be the scene, a responsive road closure or fend off should be effected by the police. The manner in which the road closure or fend off takes place should reflect good practice and individual force risk assessments dealing with the management and investigation of road collisions.

The safety of all persons at the scene is of paramount importance and should be optimised before the investigation commences.

Effective and early communication with other emergency services on, or arriving at the scene will assist in securing a safe environment in which to carry out the subsequent first aid and preliminary investigation.
2.3.8 **Administration and welfare at the scene**

The following points should be considered for administration and welfare purposes:

- monitor and record the presence and movement of personnel and vehicles
- ensure suitable road diversions are implemented to keep disruption to a minimum whilst protecting the evidential integrity of the scene through effective communication
- ensure continuity of exhibits
- prevent contamination – minimise loss of evidence
- ensure welfare of victims and emergency personnel
- consider health and safety issues
- allocate and prioritise tasks
- liaise with the media
- provide emergency service liaison.

2.3.9 **Vehicles at the scene**

- Locate and position each vehicle within the scene – this may include emergency vehicles. Where multiple vehicles are concerned it may be necessary to create an identification system, (i.e. roof marking in paint).
- Consider every vehicle that is involved in the collision, damaged or otherwise.
- Consider videoing/photographing the scene, especially the vehicles, prior to anything being moved.
- Ensure vehicle examination.
- Ensure tachograph examination.
- Collect/locate collision data recorders.
- Seize and document vehicles which are exhibits in themselves.
- Recover vehicles. (Remember the appropriate method of recovery of vehicles in the context of the subsequent examinations)
- Do not move the wheels, seats and controls of vehicles.
- Record accurately any changes to the vehicle status necessary for recovery.
- Prompt steps should be taken to recover electronic data before it is overwritten.

2.4 **Secure Evidence**

2.4.1 **Witnesses**

In the early stages of an investigation, probably one of the most important sources of evidence will be the identification of witnesses. Witnesses are the key to determining what occurred and why. Professionalism in these initial stages
should pay dividends in the investigation. Early identification of witnesses is important, as many will leave the scene shortly after the arrival of emergency services.

Many witnesses may believe that what they have seen is likely to have been witnessed by others and they may feel that their observations are therefore trivial. Every effort should be made to obtain details from all those persons at the scene and to record their initial description, accounts and discrepancies, together with their personal details and details of their vehicles (if applicable).

Placing witnesses within the context of the scene is important. For example, where were they; what vehicle may they have been driving or carried in; and in what direction were they travelling? When obtaining first accounts from witnesses, consideration should be given to their welfare needs. Suitable arrangements should be made for those witnesses that may need interpreters, such as those who do not speak English or whose hearing is impaired.

It should always be borne in mind that English may not be a witness’s first language and as a result even though they appear to use English well they may have difficulties expressing themselves and misunderstandings may appear in the witness statements. Any misunderstandings may well be based on cultural considerations (especially persons who are rooted in different cultural conventions, customs or have different ways of looking at things). Allowances should be made for this and advice should be taken to ensure that any cultural perceptions are taken into account when witnesses are interviewed. Consideration must be given, when appropriate, to witness appeals being placed in several languages, the use of posters in appropriate languages in appropriate locations and the use of any local media.

2.4.2 Foreign witnesses

It is possible that foreign witnesses may return home before any trial so it is imperative that the best possible evidence be obtained in the first instance. The use of a competent interpreter to obtain best possible evidence may be a wise investment. Each Force will have a list of interpreters they use on a regular basis.

2.4.3 If the witness has already left the UK

If witnesses have left the country prior to being seen, the procedures established by the Criminal Justice (International Co-operation) Act 1990 may be used. By the procedures established by that Act, the UK may ask the authorities of another country to obtain evidence from those persons. The national co-ordinating body for this country is the United Kingdom Central Authority (UKCA), which is a department of the Home Office. The application for the assistance of another country is through the issue of a Letter of Request. Whilst some courts are fully aware of the necessary procedures required to instigate this process, it would otherwise be normal procedure to draft the full details of what is required and to send the request to the Crown Prosecution Service. The CPS transmits the request to the Home Office which in turn sends the request to the Central
Authority of the country in question. It is most important that full details of what is required are provided, together with an accurate translation in the language of the receiving country.

It is reasonable to ask that a UK police officer be present whilst the details are obtained from the witness. The Criminal Justice (International Co-operation) Act 1990 procedure may also be used to serve witness summonses on foreign witnesses. There are drawbacks to the system however, as any summons served on a person overseas must include a notice stating they do not need to comply with the summons and commit no offence by failing to do so. If the witness fails to appear, and the case is adjourned, the full procedure must be repeated for any further request to attend.

2.4.4 Children and other vulnerable witnesses

Children and other vulnerable persons such as those with learning difficulties or the mentally ill may be directly involved in collisions where someone close to them has been killed or very seriously injured. Those persons may also be key witnesses in any subsequent prosecution case. Great care and understanding has to be shown towards these persons when dealing with them not only as victims but also as witnesses. Guidance on the interviewing of child witnesses is contained in the Home Office/Department of Health booklet, “Memorandum of Good Practice on Video Recorded Interviews with Child Witnesses in Criminal Proceedings”. The Memorandum is a voluntary document and gives practical guidance regarding good practice in dealing with child witnesses. It covers topics such as pre-interview contact, the planning and conduct of interviews, post-interview therapy and security of videotapes. Notably, it suggests that interviews of this type should only be carried out by people specially trained to do so.

Reference should also be made to; the Youth Justice and Criminal Evidence Act 1999 (not all sections are in force at present); the Department of Health document ‘No Secrets’; Home Office research paper No 115, ‘Interviewing child witnesses under the Memorandum of Good Practice: a research review’ and force policies.

2.4.5 Significant witnesses - first account

At any stage of a road death investigation, witnesses whose evidence is clearly of significant evidential value will be identified because:

1. the witness may have been an eyewitness to the collision

What often becomes a matter of contention for those in this group is their descriptive ability in court. A record of what they could immediately recall in their own language may be regarded as being “best evidence”.

2. the witness maybe of greater value to the investigation because of the background information they can provide
In both groups, the first account, whether or not it is claimed to have evidence of material value to the investigation, is of particular importance in the form in which it was first volunteered.

Recording accounts has clear advantages in instances where the witness subsequently becomes a suspect due to other evidence. In circumstances in which this arises as a result of discrepancy, anomaly or omission, there can be no doubt as to the accuracy of the record of the initial account provided by a person.

*Under no circumstances should a first account be taken from any person who is, or who might become, an offender in the case under investigation. Under such circumstances, interviews under PACE treating the person as a suspect must be undertaken. Any person involved in, or witness to, a collision may be traumatised and interviewers must be cognisant of the ability of that person to give an accurate account of the incident. Failure to take account of this may later affect the admissibility of the given account in any subsequent court proceedings.*

The SIO should ensure that interviewing officers are familiar with the cultural and religious beliefs of witnesses. This may prevent any inaccurate assumptions made by the SIO based on the individual’s behaviour. In addition to this the SIO should be familiar with the concept of cross-cultural communication, particularly when dealing with minority and vulnerable groups. This will assist officers in interpreting behaviour and responses with a higher degree of accuracy, rather than making assumptions based on their own cultural background. To these ends the SIO should have a sound knowledge of Race and Community Relations issues.

**2.4.6 Evidence gathering and the Exhibits Officer**

When an investigation commences, the appointment of an Exhibits Officer should be considered at the earliest opportunity. If a major incident and/or HOLMES is used then the exhibits officer should have an understanding of the working requirements of the MIR, in particular the implications of the HOLMES exhibit system. It is the exhibits officer’s responsibility to ensure the recording, safekeeping and continuity of all exhibits as well to check the exhibits against those recovered by others.

Any investigation is mainly a matter of obtaining, recording, refining and interpreting evidence gathered. The end product of an investigation can be a jumbled assembly of bits and pieces gathered by a number of officers dealing with the incident. It may include forms, statements, drawings, photographs and even parts of or whole vehicles.

Whatever the quality or quantity, the end product of an investigation is still a collection of evidence about the collision. It is the gathering, preservation and production of this evidence which is of importance to the investigator. The weighing of evidential value is a matter for the court.
This evidence can be classified as follows:

**Scene evidence**  
Some information can only be obtained at the scene immediately after the collision, e.g. photographs and measurements of post collision positions of vehicles, debris, body parts, tyre marks. The SIO must make a decision as to what evidence has to be gathered at the scene and what evidence could be collected later. The SIO may be assisted in making this decision by consultation with others such as the collision investigator.

**Additional evidence**  
Structural details of damage caused to vehicles and road layout designs can generally wait until later. However, it must be remembered that road junctions and especially road markings can change.

The process of the investigation can be thought of as a sequence of events, some of which can take place simultaneously, leading to a conclusion. The process begins with collecting information if necessary about:

- the scene
- vehicles and their occupants
- urgent investigation into impairment by drink, drugs or fatigue
- other persons present
- road layout.

It continues through inferences or conclusions about the sequence of events that lead to the collision and the relationship of those components during the events that lead up to the collision.

The general process is to:

- identify and describe the road layout, the vehicles and the people involved
- describe their condition prior to the collision
- observe the effect the collision has had on them (damage and injury)
- analyse the events and circumstances
- describe their condition post collision and pre-recovery
- gather information on precipitating and contributory factors.

Each of these operations requires detailed and accurate records to be kept. There will be occasions when members of the public or the press have still or video footage of the collision scene. Thought should be given to obtaining the films from such persons for evidential purposes.
2.4.7 Collision investigation evidence

Collision Investigators are used to examine the results of collisions and obtain information at the scene, which may not be available later. Only factual information is required – conclusions are not needed at this stage. Consideration should be given to taking the following actions.

- Locate, measure and describe marks and debris left at the scene.
- Locate and measure post collision positions of vehicles and bodies.
- Photograph marks, debris, bodies and post collision positions of vehicles.
- Photograph damage to vehicles and street furniture.
- Attempt to match vehicle tyres to tyre marks on the road.
- Examine condition and operation of traffic control systems and streetlights.
- Examine and note the position of control systems within the vehicles, ie light switches and gears. Also, note the condition of the seatbelts and airbags.
- Attempt to match damage caused to suspect vehicles to damage on other vehicles, street furniture or bodies.
- Exercise special care in fail to stop collisions where road sweepings may be required. If so, until this is done the scene must be kept sterile. In such cases reference should be made to the procedures contained in the Murder Investigation Manual.
- Undertake skid tests to establish coefficient of friction values between the road surface and vehicle. (usually tyres but could be bodywork if sliding on roof)
- Recover of tachograph charts, driver’s tachograph smart cards and data from digital tachographs and data recorders.

Evidence which can be gathered after the scene has been cleared may include:

- additional measurements to help prepare scene plans
- measurement of gradients, road cambers and sight lines
- full mechanical vehicle examination
- vehicle damage intrusion measurements that may assist in vehicle speed estimations
- additional photographs of vehicles and scene
- analysis of injuries to establish points of contact with vehicles and pedestrian positions and movement
- tachograph installations.

An extensive amount of evidence may be collected both at the scene and during the follow-up enquires. This evidence has to be correctly and accurately packaged and recorded for use in any subsequent criminal or civil litigation.
2.5 Identify the victim

It is essential that the victim is identified as soon as possible and the continuity of identification is maintained at all stages. Once the victim has been identified, a plastic identity bracelet or similar could be completed and attached to the victim. The label should affixed by the person to whom the identification has been made. This may obviate the need for a police officer to attend any subsequent post-mortem examination in order to identify the victim to the pathologist.

In the vast majority of cases the identity of the victim will be known and they can be positively identified by a relative or a friend. Whenever practicable, identification should be made before the post mortem examination takes place.

In some cases establishing the identity of the victim(s) is sometimes difficult and not straightforward. If so, it is an issue which must be dealt with as a matter of extreme urgency but with utmost care to avoid unnecessary suffering.

The police should never assume that any particular bereaved person would identify the deceased. This will always be a decision for the next of kin and family. The need for the bereaved to be sure of the identity cannot be emphasised enough. In all cases the family will need to be given factual information regarding the injuries suffered and condition of the deceased. The use of photographs may assist this process. The SIO should consider whether an FLO would be the best person to conduct the identification procedure.

2.5.1 Confirmation of life extinct

In all cases confirmation of life being extinct must be confirmed by a medical practitioner or qualified para-medic. Death will not actually be certified until after the post mortem.

2.5.2 Formal identification

The wishes of the family in regard to any arrangements in connection with the deceased should be respected. Issues which may need to be addressed are:

- race, gender, ethnic origin, religion, culture, age, disability, sexual orientation, nationality or place of abode
- the needs of the investigation
- viewing the deceased
- attendance of police at the funeral
- differences of opinion between relatives.

The return of non-evidential effects of the deceased can be dealt with by the FLO once they have been released. Personal effects may have been affected by the collision and may be damaged and show signs of the trauma suffered by the deceased. It should be a matter for the family to decide whether they wish to have such items cleaned or restored should they wish them to be returned. In all cases, sensitivity should be exercised when returning property to the family.
In those cases where early identification may not be possible, the compilation of a detailed description of the victim’s physical description, clothing worn, jewellery, and any marks, scars or tattoos is a priority.

### 2.5.3 Special provisions relating to foreign deceased

Identification may prove to be difficult if the only starting point is a foreign registration mark or documentation. Under such circumstances organisations such as INTERPOL, through the National Criminal Intelligence Service (NCIS), or bodies such as the European Liaison Unit at New Scotland Yard may be able to assist. Other forces with international boundaries also have European Liaison Units (e.g. Hampshire and Kent) and may have direct access to European vehicle registration databases in an emergency. Whilst it is legitimate to use these bureaux for immediate enquires, such as to make an initial contact, it should be considered correct practice to contact NCIS wherever an official enquiry is required or written evidence obtained.

Under the Vienna Convention on Consular Relations and other agreements there is a bilateral legal obligation as a ‘receiving state’ to inform, without delay, the consular authorities of other signatory countries of the death of one of their nationals. The exceptions to this rule are nationals of Canada, Australia and New Zealand where, by mutual agreement, notification is considered unnecessary.

In the event of the deceased being a national of the following countries, contact should be made with the Immigration Service of the Home Office before the relevant consul is contacted. This is to ensure that the person is not a refugee or an asylum seeker. The countries are:

<table>
<thead>
<tr>
<th>Bulgaria</th>
<th>China</th>
<th>Hungary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mongolia</td>
<td>Poland</td>
<td>Romania</td>
</tr>
<tr>
<td>Russia</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If it is necessary for UK police officers to travel abroad to assist with the identification of victims on behalf of the HM Coroner, staff at the Foreign and Commonwealth Office are able to assist in fostering the necessary agreements with the host country.

In the event of a major incident involving foreign nationals, the Foreign and Commonwealth Office can provide assistance. The necessary procedures are explained in the ACPO Emergency Procedures Manual.

### 2.6 Identifying the suspect(s)

In the majority of cases any suspect will be readily identifiable as most remain at the scene. Where death has occurred and a suspected vehicle and its driver has
left the scene, a major enquiry should be instigated at the earliest opportunity and reference made to the ‘Murder Investigation Manual’.

The early identification and tracing of suspects or potential offenders must always be a priority. Where possible, officers who have not attended the scene should be tasked to effect such actions since this will avoid cross contamination. The escape of any potential offender and the intentional or accidental destruction of evidence (e.g. tachograph charts or the driver’s tachograph smart card, documents, reconnection of speed limiter) have to be guarded against. If suspects or other innocent parties involved have been identified and are still at the scene then care should be taken not to bring the victim’s family into contact with them for their own safety.

It is ACPO policy to breath test every driver who is involved in a collision. The absence of alcohol or any suspicion of impairment through drugs is as important evidentially as a positive result or substantiated suspicion.

Isolation of any suspect and/or vehicle is also important to limit cross contamination of evidence. If necessary and circumstances permit, officers not involved in the scene investigation should remove the suspect(s) from the scene. In cases of road death, emotions can run high and due consideration should be given to the personal safety, welfare and legal rights of the suspect.

2.6.1 **Foreign suspects**

The purpose of this section is to suggest means by which foreign drivers might be brought to justice without impinging upon their legal or human rights. Whilst it may be considered desirable in the interests of justice to consider detention, the provisions of the Human Rights Act, and particularly the right to liberty, must never be infringed and any detention must be fully justifiable. Refer also to the section on Foreign witnesses at 2.4.2.

2.6.2 **Section 25 PACE 1984: Power to arrest foreign offenders**

There will be occasions where police may need to facilitate the production of a foreign driver before a court where an arrestable offence such as driving without due care and attention has not been committed. Section 25 of PACE (general arrest conditions) may assist in dealing with persons where a constable has reasonable grounds for suspecting that any offence which is not an arrestable offence has been committed or attempted, or is being committed or attempted. Section 25 (3)(c) states that where the relevant person has failed to furnish a satisfactory address for service or the constable has reasonable grounds for doubting whether an address furnished by the relevant person is a satisfactory address for service (service meaning the service of a summons), or a foreign person where a suitable address cannot be provided.
A suitable address is defined as:

- where the defendant will be resident long enough to allow service of a summons to take place, or
- where someone is prepared to accept service of a summons on behalf of the defendant.

In both instances the address must be within the United Kingdom. A number of haulage companies now use the services of companies in the UK for the service of summonses but each case should be treated on its own merits.

Where it is appropriate and legally and proportionately necessary, consideration could be given to arrest for such offences as assault, criminal damage or wanton and furious driving which would negate the need to use the general conditions of arrest.

The application of the general arrest provisions under Section 25 PACE in relation to drivers who provide an overseas address for service of a summons may be described as being anomalous.

Advice from the CPS suggests that where an accused who provides such an address within the jurisdiction of the criminal courts of England and Wales fails to attend court in response to a summons served on him at that address the court may issue a warrant for his arrest. (Sections 13(1) and 13(2A) of the Magistrates Courts Act 1980).

However, a court will have no power to issue a warrant following the non-attendance of an accused if the summons was served on him at an overseas address in accordance with the provisions of Section 2 of the Criminal Justice (International Co-operation ) Act 1990, since s.s. (3) reads in part:

...failure to (comply with the summons) shall not constitute contempt of any court or be a ground for issuing a warrant to secure the attendance of the person in question...

This limitation upon the power of a court to enforce an accused’s compliance with a summons served under the provisions of the 1990 Act would be a relevant consideration for a constable to take into account in determining whether or not a general arrest condition under Section 25 of PACE was fulfilled.

Under the provisions of Section 25 PACE a constable may arrest an accused if it appears to him that service of a summons would be impracticable or inappropriate on the ground (among others) that the person had failed to furnish a satisfactory address for service.

In particular, a constable would be required to decide whether or not the provision of an overseas address was unsatisfactory because the service of a summons at that address, although practicable under the provisions of the Criminal Justice (International Co-operation) Act 1990, was nevertheless inappropriate in all the circumstances.
In the event of a minor infringement of road traffic legislation a constable might decide that the provision of an overseas address which appeared to be satisfactory on other grounds was also satisfactory notwithstanding the inability of a court to issue a warrant for an offender’s arrest in the event of his later non-appearance in response to that summons.

In the event of a more major infringement a constable might decide otherwise. They might also so decide if the offence, though technically minor, had occurred in circumstances where a fatality had occurred. In such circumstances a constable could reasonably conclude that the overseas address provided by the accused was not satisfactory for service because it would not permit a court to issue a warrant for arrest in the event of non-appearance following service of a summons at that address.

In such circumstances a constable could decide the general arrest condition under Section 25(3)(c)(i) was satisfied, that service of a summons would therefore be inappropriate and that he should exercise his general power of arrest.

It would be open to an accused driver to provide an alternative address for service within the jurisdiction which the constable might find acceptable. A foreign driver whose place of work and home address are both overseas might appear to be at some disadvantage in such a situation. However, such a person may specify some other address within England and Wales at which a summons may be served (refer to Magistrates Courts Rules 1981 r.99(8)).

2.6.3 **PACE Codes of Practice and foreign persons**

PACE recognises that some persons who come into police custody are particularly vulnerable. Persons who do not speak English are one such group and every care should be taken to ensure that they are treated fairly. PACE does not generally apply to those detained under the Immigration Act although the Codes of Practice recommend that the codes relating to the conditions of detention and treatment are complied with as a minimum standard.

**Notification of arrest**

PACE and the Human Rights Act require that every person shall have the right to be informed, as soon as practicable, in their own language, the reason for any arrest.

After arrival at a custody suite there is an obligation upon the custody officer to call an interpreter if he/she cannot establish effective communication with the detained person. When giving the detained person details of his/her rights, PACE additionally requires that a citizen of an independent Commonwealth country or a national of a foreign country (including the Republic of Ireland) must be informed of his/her rights of communication with their High Commission, Embassy or Consulate.
Notification will only take place where there is a bilateral agreement. The countries where this applies are listed below:

*Figure 8 – Arrest, notifiable countries*

<table>
<thead>
<tr>
<th>Armenia</th>
<th>Austria</th>
<th>Azerbaijan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belarus</td>
<td>Belgium</td>
<td>Bosnia Herzegovina</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>China *</td>
<td>Croatia</td>
</tr>
<tr>
<td>Cuba</td>
<td>Czech Republic</td>
<td>Denmark</td>
</tr>
<tr>
<td>Egypt</td>
<td>France</td>
<td>Georgia</td>
</tr>
<tr>
<td>Germany</td>
<td>Greece</td>
<td>Hungary</td>
</tr>
<tr>
<td>Uzbekistan</td>
<td>Yugoslavia</td>
<td>Kazakhstan</td>
</tr>
<tr>
<td>Macedonia</td>
<td>Mexico</td>
<td>Moldova</td>
</tr>
<tr>
<td>Mongolia</td>
<td>Norway</td>
<td>Poland</td>
</tr>
<tr>
<td>Romania</td>
<td>Russia</td>
<td>Slovak Republic</td>
</tr>
<tr>
<td>Slovenia</td>
<td>Spain</td>
<td>Sweden</td>
</tr>
<tr>
<td>Tajikistan</td>
<td>Turkmenistan</td>
<td>Ukraine</td>
</tr>
<tr>
<td>USA</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(*) Police are required to inform Chinese officials of arrest/detention in the Manchester Consular area only. This comprises Derbyshire, Durham, Greater Manchester, Lancashire, Merseyside, North South and West Yorkshire and Tyne & Wear.

### 2.6.4 Reporting foreign suspects for summons

Whilst it is feasible to report an offender for process by summons it should be borne in mind that the service of summons overseas may not ensure the return of the defendant to court.

### 2.6.5 Service of summonses abroad

As with witnesses, the procedures established by the Criminal Justice (International Co-operation) Act 1990 may be used. The procedure for the service of a summons are the same as those for the service of a witness summons and are detailed at 2.4.3.

If an indictable offence is being investigated, there may be grounds to ask for extradition. It is also possible that the UK could ask another country to consider taking over the conduct of a prosecution within their own judicial system. The Criminal Justice (International Co-operation) Act procedure may be used to serve summonses on foreign defendants whilst abroad. **There are drawbacks to the**
system however, as any summons served on a person overseas must include a notice stating they do not need to comply with the summons and they commit no offence by failing to do so.

2.6.6 Citing of convictions from other countries

A European directive on the acceptability of previous convictions for serious offences from other Member States has been issued but is awaiting enactment into UK legislation at this time. NCIS is a competent authority in these matters and should in most cases be able to obtain the details of past convictions. Where this facility fails, details can be obtained through the procedure within the Criminal Justice (International Co-operation) Act 1990 by making a request to the UKCA, in the first instance through the Crown Prosecution Service.

2.6.7 Diplomatic immunity

Diplomatic immunity has to be claimed and is not effective until claimed. Immunity can take more than one form. Where any diplomatic immunity is claimed, advice should always be sought immediately from the Protocol Section of the Foreign Office. The Foreign Office will check the status of the claimed immunity and will advise on the course of action that should follow.

2.6.8 Illegal immigrants

If there is a possibility any person who comes to the notice of the police during an investigation is illegally in the UK, advice should be sought from the local Immigration Office. Where a local office is unobtainable, application can be made to NCIS, which has access to the Immigration Service, where the details can be secured.

2.6.9 Criminal Justice (International Co-operation) Act 1990

It should be noted the Criminal Justice (International Co-operation) Act 1990 is restricted to criminal enquiries and should not strictly be used to obtain evidence for a Coroner’s Court, which is a fact-establishing tribunal. If a link can be established to a criminal matter then the UKCA will normally be happy to assist.

Where such a link with a criminal investigation cannot be established, a request for assistance could be made through the Consular Section of the Foreign and Commonwealth Office.

2.7 Make record

The Criminal Procedure and Investigations Act 1996 places specific duties on the Police to make reasonable inquiries during an investigation and to retain, record and reveal investigation material. This includes investigations where crimes have been committed, or to find out whether a crime has been committed.
Forces should have their own procedures in place for the recording of information. Consideration should be given to the use of:

- scene logs
- policy files
- family liaison logs.

2.8 Hit and run collisions

Fatal hit and run collisions are by far the most serious of road-related incidents. There may be many reasons why a driver has failed to stop (e.g. drinking and driving, fatigue, wanton disregard for life, no insurance, driving whilst disqualified). Section 170 (2) states; 'the driver of the motor vehicle must stop and, if required to do so by any person having reasonable grounds for so requiring give his name and address and also the name and address of the owner of the vehicle and the identification marks of the vehicle'. The duty to stop means to stop sufficiently long enough to exchange those particulars previously mentioned \(\text{Lee v Knapp [1966] 3 ALL ER 961}\). Section 170 (5) places an obligation on a driver involved in a injury accident to report the accident and produce a certificate of insurance to a police constable or police station as soon as reasonably practicable and in any case within 24 hours. \(\text{In Bulman v Bennett [1974] RTR 1}\) it was held that the duty to report meant ‘as soon as reasonably practicable’. It does not mean the driver has 24 hours within which to report the collision.

Early identification of a suspect is vital, in order that they may be dealt with expediently and appropriately. This is particularly important where there is a suspicion of impairment through drink or drugs.

Section 71 of the Criminal Justice and Police Act 2001 makes failing to stop after a collision where injury is involved as defined by section 170(4) of the Road Traffic Act 1988 an arrestable offence under section 24(2) of PACE. \textbf{However, at this time no commencement order has been signed.}

2.8.1 Where the suspect has left the scene

Initial actions

The actions which follow should be considered at an early stage in order to identify a suspect.

- Instigate major enquiry and refer to the Murder Investigation Manual.
- Circulate a description of the offender (if known), details of suspect vehicle which may be extended to others sources such as CCTV, neighbourhood watch, neighbouring forces, taxi/private hire companies.
- Set up road checks under Section 4, Police and Criminal Evidence Act 1984.
- Check abandoned or parked vehicles.
- Identify the route taken as soon as possible.
In all fatal or potentially fatal hit and run collisions a major enquiry should be initiated immediately and reference made to the section of the Murder Investigation Manual relating to ‘Fast Track Actions’. Reference should also be made to the Major Incident Room Standardised Administrative Procedures (MIRSAP) Manual. The Murder Investigation Manual states, when dealing with a hit and run collision, ‘Therefore, the overriding consideration must be that where death or serious injury is reported or circumstances appear suspicious - “THINK MURDER”. Crime scenes are precious. Opportunities to harvest evidence should not be wasted’.

2.9 Suspicious road deaths

It has been suggested that the easiest way in which to avoid the detection of an unlawful killing is for the offender to make the circumstances of the death appear to be accidental. Certainly, the scenario of the road death offers any offender almost ideal circumstances for the destruction of crucial evidence. The evidence may be destroyed during the collision, by emergency services attempting to save or preserve life, by police officers and others at a scene seeking to restore normality and by many individuals or organisations whose normal working practices unfortunately do not cater for the preservation of evidence.

Unlike a defined ‘scene’ the road death will often have a large number of people present in the form of witnesses, onlookers, emergency services and other people who may have been involved in the incident.

Only rarely will the first officer on the scene, and later the SIO, be presented with circumstances which immediately suggest the death should be treated as suspicious.

Even where the death does not appear to be suspicious there will be great benefits to the investigation for similar principles to be followed in relation to evidence gathering and scene preservation.

2.9.1 Does the death appear to be suspicious?

The SIO may best deal with this issue by considering whether there is evidence which establishes clearly the provenance of how the deceased came to be at the location they were found.

Even when there are ‘eye witnesses’ relating the apparent circumstances, their initial explanations should be balanced against their credibility and the independent physical evidence at the scene.

If questions of WHEN, HOW, WHAT and WHO cannot be satisfied, then the death should be treated as suspicious.
2.9.2 **Bodies found in the road or at the roadside**

A body may come to rest in a road as a result of:

- being ejected out of, or off a vehicle due to a violent collision involving the vehicle
- being struck by a vehicle
- falling, jumping, or being thrown from a vehicle
- falling, jumping, or being thrown from an overbridge
- collapsing due to illness, impairment
- being subjected to a violent assault at the locus or in the immediate vicinity
- being placed there following an earlier collision or assault

Where a body is found lying in a road, the senior officer on scene and the SIO should consider whether the location is the only scene related to the death. It is possible for a body to be carried for some considerable distance on a vehicle. This issue alone may entail the closure of a substantial length of road for a substantial period of time until a forensic examination has identified possible collision points.

It is important to consider the entire road. Particularly in the case of motorways, high-speed trunk roads and dual carriageways the area of carriageway in which the deceased was found may not be the place in which the collision occurred.

Consideration should also be given to identifying the last likely location where a vehicle could have performed a manoeuvre likely to cause anybody carried on it to have fallen from it. This may allow the SIO to set the parameters of the area of road to be searched in order to establish the collision location.

Consideration should also be given as to how many times a body may have been struck by a vehicle. It may have been in collision with one vehicle several times or more than one vehicle at separate times.

Examination of the deceased in situ may provide indications as to whether the victim was upright when in collision with a vehicle or was already lying in the road. Often, in ‘hit and run’ collisions, it will be a second or subsequent collision with a prone body that leads to the incident being reported. This is a vital issue to determine, particularly where a culpable homicide charge may be considered.

Many of the above issues will only be determined by collision investigation and forensic post mortem combined with the appropriate forensic examination of the scene, any suspect vehicles and any suspect person.

2.9.3 **Tracing a vehicle**

Any collision where vehicle identification is required can be dealt with urgently by the forensic scientists. Items for examination should be taken to the laboratory as soon as possible after the collision. The laboratory will require all the material taken from the scene and the victim’s clothing to be submitted. If
the clothing has been bagged-up by the hospital it **should not be separated to be re-packaged by police**. The item should be packaged as retrieved from the hospital remembering to retain the hospital bag.

If clothing is not available then the identification can be carried out with just the debris from the scene. However, this evidence cannot be used to show actual contact between the vehicle and the victim.

Headlamp glass and plastic lens covers can provide a lot of information. They vary in size and shape depending upon the vehicle to which they are fitted. They also bear characteristic approval numbers, moulded onto them by the manufacturer. These numbers can be searched for on the forensic science laboratory database and compared against an extensive collection of lens information. Searches can even be carried out on partial numbers from broken fragments. In this way a list of possible vehicles to which a particular lens can be fitted is obtained. The Forensic Science Service has an extensive range of approval records which may assist in the identification of the source of lenses and other components.

Vehicle trim such as bumpers, wing-mirrors and spoilers can also give useful information; some will bear factory or manufacturer’s part numbers. The shape, size and construction can also be used to indicate the type of vehicle involved.

The Transport Research Laboratory (TRL) and other specialist agencies can also assist in vehicle identification from photographs, CCTV footage and witness testimony. Enhancement of various types of media is available. Identification can often be made as to the actual model, trim, equipment specification and year of a vehicle by its identifying features. This can be fed into suitable PNC Vehicle On Line Descriptive Search (VODS) inquiries to narrow down the field of potential suspect vehicles.

### 2.10 Notification of Major Incidents

Each force will have its own major incident procedure, which should follow the advice contained within the ACPO Emergency Procedures Manual. The manual defines a major incident as:

Any emergency that requires the implementation of special arrangements by one or more of the emergency services, the NHS or the local authority for:

- the rescue and transport of a large number of casualties
- the involvement, either directly or indirectly of large numbers of people
- the handling of a large number of enquires likely to be generated both from the public and the news media, usually to the police
- any incident that requires the large scale combined resources of the emergency services
- the mobilisation and organisation of the emergency services and supporting organisations.
It is always better to initiate major incident procedures at an early stage, rather than attempting to do so at some time in the future. No cognisance of the rank of the officer instigating the major incident should be taken into account. The Major Disaster Advisory Team (MDAT) can be consulted should the need arise through contact via force control rooms.

2.11 **Full scene investigation**

*Figure 9 - Full scene investigation*

A full scene investigation or examination should be undertaken under the full control of the SIO whose responsibility it is to call for whatever expert assistance is necessary to gather all available evidence. The type of expert response will vary according to the nature of the incident. Every fatal or potential fatal collision should be attended by a trained Collision Investigator.

### 2.11.1 What expert response is required?

The range of expert support available to investigators is considerable. Expert advice can be sought from contacting the National Crime Faculty (NCF), the National Operations Faculty (NOF) or the Forensic Science Service.

### 2.11.2 Expert witnesses

A constant theme throughout the manual is the need for investigators to maximise the entire range of expert skills available to support road death investigations.

In this regard both the National Operations Faculty (NOF) and National Crime Faculty (NCF) have a vital role to play in advising what sources of professional expertise is available to assist SIOs. It is acknowledged that there will be particular circumstances when the expertise required is so specialised that a direct approach to either an expert or an organisation offering expertise might be necessary.

The advantage of securing expertise through either the NOF or NCF is that they are more likely to be able to offer a professional opinion as to the creditability and competence of the expert.

Notwithstanding this fact the SIO should remember it is their responsibility alone to request such assistance and, dependant upon the type of opinion being offered, evaluate what weight is placed upon the advice in the context of the investigation.
In making an assessment of the credibility of an expert, it may be useful to address the following questions.

- Exactly what area of expertise does the person claim to have?
- What relevant expertise does the expert have upon which they claim to be an expert?
- Does the expert belong to, or have they been accredited by a relevant professional body?
- What experience has the person in giving evidence as an expert witness?
- What research experience does the person have in the field of expertise offered?
- What is the validity of any database or other research material techniques being used by the expert?
- What reputation does the expert have amongst fellow experts?
- What reputation does the expert have amongst other investigators who have used his or her services previously?

2.11.3 Causative factors in road collisions

This manual embraces the concept of contributory and precipitating factors. They should be used as a tool to consider all factors that explain why one or more road users reached a particular point on the road, in such condition that they conflicted with each other. Consequently, one or more such factors together may have lead to the collision.

Most collisions have more than one causative factor. In simplistic terms causative factors separate ‘what went wrong (precipitating factors) from ‘why did it go wrong (contributory factors). The detailed itemising of contributory factors may assist the SIO to identify other agencies or parties whose involvement may warrant further scrutiny.
### Figure 10 - Example factors which may be involved in a collision event

<table>
<thead>
<tr>
<th>Human</th>
<th>Vehicle</th>
<th>Environment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Driver eyesight and colour vision</td>
<td>Tyres and wheels - correct size/type for vehicle, pressures, blow-outs, tread loss, tread depth, vibration</td>
<td>Speed limits - determination of vehicle speeds from skid distance and reaction time</td>
</tr>
<tr>
<td>Alcohol and drugs</td>
<td>Brakes - braking effectiveness, low pedal/pedal travel, brake noise, unbalanced, failure</td>
<td>Warning signposting - are drivers informed of hazards, road works, changed conditions</td>
</tr>
<tr>
<td>Emotional disturbance - distraction, pre-occupation, upset</td>
<td>Steering/wheel alignment – precision pulling left or right, tyre wear patterns, component failures, power steering masking effect</td>
<td>Directional signposting - are drivers looking for information to the detriment of the driving task</td>
</tr>
<tr>
<td>Experience level - type of experience in environment motorway, urban, night time conditions</td>
<td>Windscreen cleanliness/condition - scratching, cracks and chips</td>
<td>Road condition e.g. road surface slippery, damaged, worn</td>
</tr>
<tr>
<td>Judgement - ability to assess risk of situation</td>
<td>Windscreen wipers/ blades - wet weather, especially at night</td>
<td>Road geometry – curvature and grade</td>
</tr>
<tr>
<td>Occasional or regular driver</td>
<td>Lights, signals, other controls - functionality</td>
<td>Road standards – lighting, road markings, delineation</td>
</tr>
<tr>
<td>Tiredness/Fatigue - duration of journey, pre journey activities</td>
<td>Lights on - particularly motorcycles during day</td>
<td>Visibility - junctions, driveways and curves</td>
</tr>
<tr>
<td>Attitude to driving task - aggressive, cautious</td>
<td>Car colour - visibility against background</td>
<td>Junction treatments - safe for traffic volumes, standards</td>
</tr>
<tr>
<td>Pedestrian collisions - exposure of pedestrian, actions, speed of movement, conspicuity</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Skeletal disorders – e.g. osteoporosis, old injuries – e.g. sport, recreation or work injury</td>
<td>Safety equipment – including seatbelts, child restraints, airbags, head restraints in place and in good order</td>
<td>Recovery Areas - clear zones in which to regain control of vehicle without collision</td>
</tr>
<tr>
<td>Occupant restraint use - were restraints correctly worn?</td>
<td>Vehicle performance - capability as distinct from stated speed</td>
<td>Roadside objects - proximity of, structure, contribution to injuries</td>
</tr>
<tr>
<td>Seating position - in vehicle, motorcycle rider or pillion</td>
<td>Direction and speed of involved vehicles, details of involved vehicles, including mass of load if carried</td>
<td>Roadside protection - safety fencing, central reserve barriers, crash cushions</td>
</tr>
<tr>
<td>Helmet use</td>
<td>Integrity of occupant space -eg side impact protection</td>
<td>Embankments/drainage channels</td>
</tr>
<tr>
<td>Occupant impact with vehicle interior</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Age - recovery performance generally diminished with age</td>
<td>Integrity of fuel and electrical systems</td>
<td>Communication systems - emergency phones, mobile phones, CB radio, public/private phones</td>
</tr>
<tr>
<td>Physical condition/mental attitude</td>
<td>Egress options - doors functioning, windows knocked out, driver trapped</td>
<td>Location and quantity of medical services - response times, time of travel</td>
</tr>
<tr>
<td>Medical assistance</td>
<td></td>
<td>Access of medical services - access to collision site</td>
</tr>
</tbody>
</table>
2.11.4 Subsequent examinations

It is the responsibility of the SIO to determine what subsequent examinations they feel are necessary to conduct a full and professional investigation. These may include the post mortem, vehicle examinations, tachograph analysis and the use of computers to gather evidence.

2.11.5 Digital evidence and computers as exhibits

Special consideration should be given to the seizure and storage of digital data particularly from vehicle tracking systems and collision data recorders. These devices are fitted increasingly into commercial goods and passenger vehicles (see Investigative tools).

Many companies retain data relating to vehicle movement and drivers’ hours of work on office-based computers. In order to ensure this information is not corrupted and remains suitable as evidence, it is advisable to make early reference to the ACPO Crime Committee guide on Good Practice for Computer Based Evidence. The guide provides detail on how to remove, transport and package computers and should be consulted before the seizure of any computer equipment. The guide lays down five principles.

The principles of digital evidence

Principle 1: No action taken by Police or their agents should change data held on a computer or other media that may subsequently be relied upon in Court.

Principle 2: In exceptional circumstances where a person finds it necessary to access original data held on a target computer that person must be competent to do so and to give evidence explaining the relevance and the implications of their actions.

Principle 3: An audit trail or other record of all processes applied to computer-based evidence should be created and preserved. An independent third party should be able to repeat those processes and achieve the same result.

Principle 4: The onus rests with the officer in charge of the case to ensure compliance with any law pertaining to the possession of, or access to, information contained on a computer. The officer must be satisfied that the use of any copying device or action by any person having access to the computer complies with these laws.

Principle 5: The onus of ensuring these principles are adhered to and the evidence is admissible rests with the officer in charge of the case.
Explanation of the principles

Data held on a computer is no different from information or text contained on a document. For this reason, evidence based on a computer or on computer media is subject to the same rules and laws that apply to documentary evidence.

The Doctrine of Documentary evidence may be explained as follows:

*the onus is on the prosecution to show to the Court that the evidence produced is no more and no less now than when it was when first taken into the possession of police.*

Operating systems and other programmes frequently alter and add to the contents of the computer’s storage space. This happens automatically without the user necessarily being aware that the data has been changed.

In order to comply with the principles of computer-based evidence a copy should be made of the entire target device. Partial or selective file copying should not be readily considered as an alternative. This process is often known as Forensic Mirror Imaging.

The copy or copies should be made onto Write Once Read Many (WORM) media, which should be retained for examination and subsequent Court use.

In a minority of cases it may not be possible to obtain an image using a recognised imaging device. In these circumstances it may become necessary for the original machine to be accessed to recover the evidence. With this in mind it is essential any such access is made by a witness competent to give evidence to a Court of Law.

It is essential to show objectively to a court that the continuity and integrity of the evidence has been preserved. It is necessary to demonstrate to the court how evidence has been recovered showing each process through which the evidence was obtained. Evidence should be preserved to the extent that a third party is able to repeat the same process and arrive at the same result as that presented to a court.

Compliance with these principles will ensure that the continuity and integrity of the evidence will be preserved.

2.11.6 Restoring to normality

Once the SIO, collision investigator and the scene manager agree no further evidence can be obtained from the scene, the road(s) may be reopened. A final search of the area should be made to ensure no evidence, bodies or equipment has been overlooked. The local media should be appraised as to the reopening to update traffic bulletins.
2.12 Post scene

In cases where there is any evidence or any reasonable belief that a prosecution may arise, it is recommended that an early case conference take place between the SIO and the Crown Prosecution Service. The objective of the case conference will be to review the evidence available and identify lines of inquiry to be followed and the desired outcome to be achieved. In cases where an indictable offence is capable of proof, it will be beneficial to appoint dedicated counsel once the CPS has agreed to the committal proceedings.

The initial case conference suggested above may benefit from the inclusion of the Collision Investigator, Vehicle Examiner or other expert witnesses if the CPS so request. The FLO should not attend such conferences other than at the request of the CPS and in order solely to put forward the views of the family. In any case
where the FLO attends a case conference it must be with the full knowledge of the family. It is important the FLO is seen to be detached from any process by which decisions on prosecutions are made.

Case conferences should be held regularly and should involve Police, CPS and, if possible, prosecuting counsel. Case conferences are pivotal in any investigation of an unlawful death and an SIO should be sufficiently aware of any issues likely to be raised by the CPS. It is good practice to ensure the CPS is fully cognisant of the investigation and similarly an SIO should seek direction from the CPS concerning areas of concern by them and counsel.

### 2.12.1 Role of the CPS

Established by the Prosecution of Offences Act 1985, the Crown Prosecution Service provides a national framework for an independent prosecution service. The CPS are not investigators but they do have clear and consistent criteria for prosecution. They provide advice and guidance on evidential matters and not the conduct of a particular investigation.

The SIO should establish liaison with the appropriate branch officer or nominated adviser early on in the enquiry. Advice will be given on any issue including law, procedural matters and anything having a bearing on the quality, reliability and admissibility of evidence. Involvement of the CPS in reviewing evidence, particularly before charge, may produce new lines of direction/enquiry thereby reducing resource costs and lessening the possibility of discontinuance.

The CPS will check documentary evidence and highlight areas of evidence which would benefit from further investigation. CPS may give advice on offences disclosed and the choice of charges. CPS may advise on areas of questioning but it is deemed inappropriate for them to draft questions to be used in interviews of suspects. However the consultation process must never impede the neutrality and independence of the CPS. As part of the ongoing consultation the CPS should be encouraged to visit incident rooms. Partnership between the CPS and the Police is the key factor in getting the right case into the right court at the right time. The SIO should consider notifying the CPS as early as possible about issues, such as when charges are to be preferred and remand in custody hearings.

The decision to engage counsel is one for the CPS. Where possible, they will take into account the views of the SIO. Where specialist advice on complex or serious crime is sought pre-charge, special case work lawyers are available for consultation.

The CPS, in liaison with the police, monitor the treatment of ethnic minorities within the Criminal Justice System, bringing to the notice of the courts racially motivated incidents. The Crime and Disorder Act 1988 has introduced the offences of racial aggravation which are over and above a substantive charge. The Court will decide if the case in question was aggravated by racial motivation. To this end it is imperative the CPS are supplied with all the facts at the earliest stage. In September 1997 the CPS produced a report which indicated that
notification of such incidents on case papers which clearly contained an element of racial motivation were not occurring in a high proportion of the cases.

The CPS have clear policy on juveniles and vulnerable witnesses and may make application for video linked-evidence facilities. Additionally CPS will fast track child witnesses through the court process whenever possible.

The CPS has no obligation to make applications for warrants of further detention. Despite this fact, in most areas of the country they will undertake this task provided they are consulted at an early stage. An SIO should be aware, if early liaison with the CPS is not established, it may result in the CPS declining to support the SIO during an application for a warrant of further detention. The joint CPS/Police charging standards are reproduced at Appendix ‘F’.

The SIO is encouraged to set up early liaison with their local CPS in complex road death investigations, thus allowing the CPS to provide advice on legal and procedural matters.

2.12.2 Critical incident stress de-fusing/de-briefing

The Police Service has a responsibility to ensure as far as is reasonably practicable the health safety and welfare of its personnel. This duty of care is one of the prime responsibilities of supervisors.

Personnel involved in dealing with an incidence of road death may be exposed to sights and circumstances which they find particularly distressing, traumatic or difficult to come to terms with. In some cases, such exposure may lead to adverse physical, emotional or psychological reactions. Most United Kingdom Police Forces have adopted a strategy of critical incident stress management in order to provide support to personnel. This strategy includes the use of defusing and critical incident stress debriefing.

Supervisors normally undertake defusing. Debriefing can be requested by any officer but supervisors will often be best placed to recognise that a debrief is required. Debriefing is usually organised through the Occupational Health or Welfare Department.

The aim of defusing and debriefing is to provide an environment where personnel can discuss a particularly distressing incident with others who have been involved in it. By so doing, they are helped to understand and come to terms with any adverse reactions which they may experience.

2.12.3 Defusing

Defusing is an informal process, led by a supervisor, which will normally last about 10 to 15 minutes. It should take place shortly after the incident, preferably prior to the end of a shift. If possible, all personnel involved in the incident should be included. The aim is to provide immediate support and assistance, whilst allowing a supervisor to assess whether a critical incident stress debrief will be required.
The supervisor's role is to talk through the incident using the following framework:

- opening remarks to explain the purpose of the meeting
- allowing people to express how they feel following the incident
- giving information on possible stress reactions.

The supervisor should be aware of the reactions of each individual and be prepared to make any necessary welfare arrangements.

In accordance with the code of practice on disclosure, discussing the facts of the incident should be avoided prior to notebooks being completed and statements prepared.

2.12.4 Debriefing

A debriefing is normally held 48 to 72 hours after an incident. Depending upon Force policy, the debrief will be led by either colleagues, welfare personnel or an outside agency. Personnel involved should be relieved of their duties in order that the debrief is undisturbed. It should be held in private and be confidential to the personnel concerned. All personnel involved in the incident should be included.

The purpose of the debrief is to provide a safe environment for people to talk about the incident and come to terms with any reactions they have experienced or may experience in the future.

2.12.5 Disclosure of de-briefing issues

A debrief should only be held after notebooks have been completed and statements prepared. Where any fresh or relevant information comes out of the debrief, that information should be recorded and retained in accordance with the code of practice introduced by the Criminal Procedure and Investigations Act, 1996.

2.12.6 Inform other agencies as necessary

If the collision has had an adverse effect on the state of the road and/or street furniture then the relevant highways authority should be informed so that remedial measures can be instigated.
2.13 The investigation

2.13.1 What else does the investigation need to know?

Having assessed all available information, the SIO will now be in a position to
determine what additional information is required. This information can come
from a wide variety of sources. The Criminal Procedure and Investigations Act
1996 Codes of Practice state, ‘In conducting an investigation the investigator
should pursue all reasonable lines of enquiry, whether these point towards or
away from the suspect’.

If at this stage no further information is required and no viable lines of enquiry
are left then the SIO should, if appropriate, consider a charge.

2.13.2 Identify where any additional information can be found

If additional information is required, the SIO must determine where information
can be found. Evidence of previous driving as much as two miles from the scene
of a collision has been held to be admissible (Hallett v Waren (1929) 93 JP 225)
as has evidence of reckless driving five miles away (R v Taylor (1927) 20 Cr App
R). However, care should be taken when presenting these facts to the court as
evidence of previous driving may be viewed as a separate offence from that
specified in the information.

Additional information can be gained by identifying appropriate CCTV sites or
accessing camera enforcement technology. Previous driving and criminal history
can be investigated through use of the Police National Computer (PNC) or
DVLA driver and vehicle records databases.

If additional information is found then the SIO must again ask the question:
‘What does the investigation now know?’

2.13.3 Interviewing

Interviews must be conducted professionally and with integrity, thereby
minimising the frequency of defence challenges.

Recognising these aims, the ACPO Steering Group on Investigative Interviewing
in 1992 approved the following seven principles of investigative interviewing
which apply equally to the interview of witnesses, victims and suspects.

2.13.4 General principles of investigative interviewing

- The role of the investigative interview is to obtain accurate and reliable
  information from suspects, witnesses or victims in order to discover the
  truth about matters under police investigation.
- Investigative interviewing should be approached with an open mind.
  Information obtained from the person who is being interviewed should
  always be tested against what the interviewing officer already knows or
  what can reasonably be established.
When questioning anyone, a police officer must act fairly in the circumstances of each individual case.

A police officer is not bound to accept the first answer given. Questioning is not unfair merely because it is persistent.

Even when a suspect exercises the right of silence, police will have the right to put questions.

When conducting an interview, police officers are free to ask questions in order to establish the truth, except for interviews with child victims of sexual or violent abuse, which are to be used in criminal proceedings. They are not constrained by the rules applied to lawyers at Court.

Vulnerable people, whether victims, witnesses or suspects must be treated with particular consideration at all times.

2.13.5 Main strategic issues of interviewing

Figure 13 - Interviewing: main strategic issues

<table>
<thead>
<tr>
<th>SELECTION OF INTERVIEWERS</th>
<th>PLANNING THE INTERVIEW</th>
<th>MANAGING THE INTERVIEW</th>
</tr>
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<tbody>
<tr>
<td>Training</td>
<td>Briefing</td>
<td>Co-ordination</td>
</tr>
<tr>
<td>Experience</td>
<td>Research</td>
<td>Disclosure</td>
</tr>
<tr>
<td>Suitability</td>
<td>Structure</td>
<td>Victim, witness &amp; suspect support</td>
</tr>
<tr>
<td>Number of teams</td>
<td>Disclosure</td>
<td>Continual review</td>
</tr>
<tr>
<td></td>
<td>Venue</td>
<td>Expert support</td>
</tr>
<tr>
<td></td>
<td>Expert support</td>
<td></td>
</tr>
</tbody>
</table>

2.13.6 Selection of interviewers

The selection of an interview team is an important first step. Generally, two officers are regarded as the ideal number of a team. Whenever possible, it is suggested there should be a different interview team to each witness, victim and suspect. In selecting the team, the SIO may wish to consider:

- the training, skills profile and experience of the officers
- a minimum requirement should be that officers have successfully completed the PEACE model interview training course
- officers, having attended the course, should have maintained their skills and when appropriate have undergone refresher training courses
- the suitability of the officer to undertake the interview (whether there are any prohibiting factors, which might prevent rapport building, such as previous dealings with the suspect)
• when suspect is from minority group or is a juvenile, whether the officer the expertise, sensitivity or understanding to effectively conduct an interview
• appoint reserve officers in the event of sickness or other unforeseen abstractions.

2.13.7 Planning the interview

The first stage of planning for an interview should be a briefing either by the SIO or a nominated interview co-ordinator. It is essential the SIO plays an influential role in ensuring the interview team understand the objectives and aims of the interview.

The briefing should give guidance on such matters as:
• planning and structuring interview
• points to be put to suspect
• disclosure to defence prior to interviews
• the use/times of special warning
• dealing with significant statements
• dealing with “active defence”
• dealing with “considered statements” by suspects.

All officers should familiarise themselves with the contents of the ‘Practical Guide to Investigative Interviewing’ produced by the National Crime Faculty.

2.13.8 Interviewing foreign suspects

Special provisions relate to the interview of persons if:
• they do not understand English
• the interviewing officer does not speak the defendant’s language
• the person wishes an interpreter to be present.

These persons must not be interviewed in the absence of a person capable of acting as an interpreter. Every attempt should be made to assure the detained person that an interpreter will be obtained at public expense. A police officer may only act as an interpreter with the written consent of the detained person and never during consultations to obtain legal advice. Codes 13.3 and 13.4 of PACE set out the format of the interview and the sections are reproduced below:

*The interviewing officer shall ensure that the interpreter makes a note of the interview at the time in the language of the person being interviewed for use in the event of his being called to give evidence, and certifies its accuracy. He shall allow sufficient time for the interpreter to make a note of each question and answer after each has been put or given and interpreted. The person shall be given an opportunity to*
read it or have it read to him and sign it as correct or to indicate the respects in which he considers it inaccurate. If the interview is tape-recorded, the arrangements set out in Code E apply.

In the case of a person making a statement in a language other than English:

- the interpreter shall take down the statement in the language in which it was made
- the person making the statement will be invited to sign it
- an official English translation shall be made in due course.

An ‘appropriate adult’ cannot also act as an interpreter as they are separate functions. If the interpreter is needed as a prosecution witness at the person’s trial, a second interpreter must act as the court’s interpreter.

2.13.9 Bail

Where a foreign person is detained, circumstances may be such that a custody officer may consider that the person could be offered conditional bail where passports may be surrendered as a condition of that bail. This would allow the person freedom of movement whilst ensuring as far as possible availability to attend court.

2.13.10 Narey principles of fast-track justice

In the case of Smith v-DPP (1999) (The Times, 28 July 1999) the court stated: “Whilst there was no rule of law requiring justices to adjourn any trial involving a fatal road traffic collision until after an inquest has been held, as a matter of practice they should do”.

Where proceedings for driving without due care and attention and other like offences are to be taken following a fatal road traffic collision, the Coroner may, if he/she has good reason for doing so, hold an inquest before the criminal proceedings take place. In such cases, it will be impossible to fast track a prosecution against a foreign national. The Coroner may instead decide to postpone an inquest until after the proceedings have been completed. He is obliged to do this where a person has been charged with either Section 1 or 3(A) of the Road Traffic Act 1988. The fast tracking of a prosecution under such circumstances is still an option to be considered.

2.14 Human Rights

Throughout the conduct of the investigation the SIO should bear in mind the obligation on the police service, as a public authority, to act in accordance with the principles contained in the European Convention on Human Rights and under Section 3 of the Human Rights Act to interpret and give effect to domestic legislation in a way which is compatible with those rights.
When contemplating a course of action in relation to either a suspect, witnesses or victim’s family, the following questions should be considered.

- Is a Convention right engaged at all?
- If so, which articles of the Convention are concerned?
- Would the contemplated action interfere with a right under one or more Articles?

Breach of Article 2, Right to Life; Article 3, Prohibition of Torture or to inhuman or degrading treatment and Article 7, No Punishment without Law cannot be justified.

Breach of the Qualified Rights for Respect for Private and Family Life (Article 8); Freedom of Thought, Conscience and Religion (Article 9); Freedom of Expression (Article 10) and Freedom of Assembly and Association (Article 11) can be justified if the breach is:

- in compliance with domestic law, and
- is necessary to achieve one of the legitimate aims specified in the relevant Article, and
- is proportionate (ie is not a sledgehammer to crack a nut), and
- applies to all equally and is therefore not discriminatory.

Breach of the Special Rights to Liberty and Security (Article 5) can be justified if the breach:

- is lawful, and
- falls within one of the specified exemptions in the Article.

Breach of the Special Right to a Fair Trial (Article 6) can be justified if the breach:

- complies with the minimum rights contained in Article 6(3), and
- still allows a fair trial to be held, and
- does not affect the overall fairness of that trial.

If in doubt when considering any of the issues outlines above, the SIO should seek advice from their Force Solicitor or the Crown Prosecution Service.

A full note of any consideration of Human Rights issues in the course of the enquiry should be entered in the policy file.

2.15 Post-charge investigation process

Once a person is charged or summoned, the investigation should proceed to the post-charge investigation stage. All possible lines of enquiry left open should be investigated so as to satisfy the requirements of the Criminal Procedures and Investigations Act 1996 and the Human Rights Act 1998. Full case papers
should be prepared during this stage if not done previously and full disclosure made to the Crown Prosecution Service.

2.16 Court hearings

Consideration has to be given to any prosecution witnesses during any subsequent court hearings. They will often have witnessed very traumatic events and police and court support to such people is strongly advised. A victim’s family will in nearly all cases want to be present at any court hearing and a good family liaison strategy and officer will help in these circumstances.

2.17 Other considerations

After the conclusion of the case, a full de-brief should be undertaken in order to ascertain what went well during the investigation and what, if anything, may be improved upon in future cases. SIOs may wish to pass on details of this de-brief to the National Operations Faculty so that the manual can be updated as necessary and good practice and unusual circumstances promulgated to the service.

Essential remedial information should be disseminated to other agencies such as the Vehicle Inspectorate, vehicle manufacturers and highway authorities as appropriate.

If no viable lines of enquiry are evident and the case cannot proceed to charge or summons because of a lack of evidence, then the case should enter the case maintenance/review process taking into account feedback and remedial measures.

During this process new lines of enquiry may come to light and the SIO should again ask, ‘What does the investigation now know?’ and, ‘What else does the investigation need to know?’ to conclude the case. It must be remembered that all lines of enquiry should be undertaken, not only to assist the prosecution but also the defence, taking account of relevant legislation.

2.17.1 Disclosure

A disclosure officer should be appointed in every case. The SIO should be aware of the role and responsibilities of the disclosure officer. Reference should also be made to the Attorney General’s guidelines on disclosure. The disclosure officer is:

…the person responsible for examining material retained by the police during an investigation; revealing material to the prosecutor during the investigation and any criminal proceedings resulting from it, and certifying that he has done this; and disclosing material to the accused at the request of the prosecutor;

Disclosure is a complex issue but should not necessarily preclude police forces from staging any form of pre-trial briefing. Working papers and reports prepared by the investigating officers form a class which is entitled to public interest
immunity and therefore production of such material should be ordered only where the public interest in disclosure of their contents outweighs the public interest in preserving confidentiality (Taylor v Anderton (1995) 1 WLR 447).

Disclosure in all investigation is now controlled by the Criminal Procedure and Investigations Act (CPIA), 1996. There are three stages of the disclosure process.

- **Primary disclosure**
  Supplying to the CPS schedules of unused material (MG6C and MG6D) and the Disclosure Officer’s Report (MG6E).
  Drawing to the attention of the Prosecutor any unused material which may undermine the prosecution case.
  Identifying Part II applications regarding sensitive material which undermines the prosecution case.

- **Defence statement**
  There is a statutory duty on the defence to provide a Defence Statement for all cases heard in Crown Court and, for some cases, at Magistrate’s Court.

- **Secondary disclosure**
  This is only made after the defence have made a Defence Statement.

The Disclosure Officer must re-examine unused material to see if there is anything reasonably expected to assist the defence proposed by the defence statement.

A second MG6E must be completed and submitted to the CPS certifying whether there is any unused material for Secondary Disclosure.

The Disclosure Officer must comply with the Codes of Practice and provisions of the CPIA. Furthermore:

- the SIO is required under the Act and Code of Practice to appoint a Disclosure Officer at the commencement of an investigation
- the officer’s rank will vary from force to force and depend on the profile of the case
- the Disclosure Officer must be trained in disclosure issues and be fully conversant with the use of the disclosure facility within HOLMES II whenever HOLMES II is used for an enquiry.
The Disclosure Officer’s main functions are:

- to examine and be responsible for the disclosure of all material involved in the enquiry
- brief staff on the enquiry of their responsibilities
- prepare a major incident schedule on the appropriate MG forms
- advise the SIO in respect of:
  - Third Party Disclosure issues
  - unused material in the possession of all officers engaged on the enquiry
  - lines of enquiry
  - continuity of evidence
  - material undermining the Prosecution Case
  - material assisting the Defence Case
- decisions on disclosure are to be made by examining, on their own merits, each document or article
- sensitive material is to be viewed together with linked material in order to satisfy the classification as ‘sensitive’.

The Disclosure Officer is not responsible for checking up on an individual enquiry officer’s workload. It is the responsibility of the individual officer to feed the investigation with the relevant information and the Disclosure Officer has responsibility to then deal with it.

Many organisations such as police, fire and ambulance services, the military and large companies will instigate their own internal discipline and investigative procedures. Such procedures and investigations files may be a source of information relevant to a police investigation. If these files are obtained then the rules of disclosure will apply to them.

2.18 Case preparation

Case preparation should involve a structured report system which identifies clearly when statements and documents are submitted to the CPS. To this extent, full use of criminal justice units should be made.

The SIO must carefully supervise all files forwarded to the CPS. The prosecution file should follow the standard format identified in the Manual of Guidance and must be submitted promptly within the statutory time limits imposed by legislation. This places a burden on those preparing and investigating to ensure that all matters are submitted in ample time to avoid any allegations of abuse of time limits.

The SIO should consider using this period to carry out a strengths and weaknesses review of the investigation. This would identify areas in need of further investigation or which if lost to the prosecution, for instance identification evidence, could possibly result in acquittal. Such an exercise should enable the
SIO to anticipate possible defence tactics and areas that will be probed for weaknesses.

This review of the investigation, post-charge, demands a dynamic focused enquiry identifying why certain actions were taken or not taken, all of which can be submitted clearly on the reports to the prosecution. In the majority of cases requests for early appointment of counsel is recommended in order to deal at an early stage with Public Interest Immunity (PII) issues and other controversial disclosure matters.

To ensure continuity and consistency, it is recommended that the pre-trial conferences called by the prosecution should be attended by the same officers. It is preferable that the SIO attend. Requests for defence examinations, particularly of exhibits, should always be dealt with by the Exhibits Officer to ensure the same continuity.

During trial, sufficient staff should be nominated to deal with victims, families, witnesses, defence and prosecution demands, together with officers who are able to investigate any potential defence allegations and alibis.

2.19 File preparation

File preparation should not be seen as merely another stage in the investigative process but as a task which begins with the first call to the scene. Every piece of evidence, whether statement, physical, calculation or expert opinion should be collected from the start and form the basis of the file. The file should be open and easy to follow for any other person.

A prosecution file should be submitted in accordance with the ACPO Manual of Guidance for the Preparation, Processing and Submission of Files and within statutory time limits. The SIO must always have full responsibility for the file, which should be subjected to a final scrutiny before being submitted.

In preparing a front sheet for the file the following points should be considered:

- the conclusion and recommendations must be those of the SIO
- an analysis of the evidence and its effects on the case should be provided
- statements by witnesses, physical evidence and expert opinion should be compared and contrasted
- conflicts in evidence should be highlighted
- likely defences should be discussed and compared with the evidence.

2.19.1 Conclusion and recommendations

The following should be considered as necessary:

- recommendations should be set against charging standards/case disposal guidelines
- a discussion of relevant law
• a discussion of relevant sections of the Highway Code
• the application of case law
• the effects on the case of the comparisons in the above paragraph and any conflicts
• assessment of the witnesses.

Note: any unused material should be disclosed to the CPS.

In preparing a prosecution file any shortcomings in the case (e.g. conflicts) should be reported to the prosecutor in a confidential memorandum.

2.19.2 HM Coroner’s files

The SIO should always remember that a file prepared separately for the Coroner, is disclosable. In practice, the file for the Coroner, will not differ greatly from a prosecution file. It may be worthwhile to prepare a separate file in certain cases, particularly those which are undetected so that the Coroner, the victim’s family and the public are satisfied that the police have made all efforts to identify the cause and, where applicable, the person responsible. It is considered good practice to include for example details of the amount of hours spent on the inquiry, the number of actions raised, the number of people interviewed and other such relevant information.

If any actions have been identified which could help to prevent similar occurrences, they should be included in the file submitted to the coroner. Typically these will be such matters as road design, layout or signing. Such traffic management issues may need expert advice and a meeting with local authority or Highways Agency representatives may be beneficial and will show that positive action has been taken.

2.19.3 Preparing a report for the inquest

It will be the responsibility of the SIO to prepare a full, professionally presented report for the Coroner in advance of the inquest. The SIO would be well advised to ascertain from the Coroner what material is required for the inquest.

The report should highlight not only the full extent of the investigation and what facts have been determined, but also other issues of relevance such as political issues. The report should also include points such as:

• history of the deceased
• circumstances of death, evidential aspects
• lines of enquiry
• people interviewed
• forensic aspects
• persons charged
• continuing enquires.
2.20 Criminal Proceedings

The question of disclosure of any evidence before the trial, for example to the victim’s relatives, is a matter for the SIO in accordance with force policy and the views/instructions of the CPS and/or HM Coroner.

When a remand/adjournment is anticipated, any matters which then arise can be reported back accurately to the SIO and the family.

The CPS must be informed at once if any delay occurs or if any potential for delay is identified, for example, if forensic analysis is delayed.

In cases where proceedings for lesser offences are prosecuted by way of summons, the summonses should normally be applied for under s.1, Magistrates’ Courts Act and not under S.12, thereby ensuring the case is not disposed of by way of postal plea of guilty.

2.20.1 Further developments

The SIO must be kept fully informed of any post-charge developments and must ensure that any necessary action is taken and that all relevant parties, particularly the bereaved family, are kept abreast of developments, court dates and adjournments. It must always be the aim of the SIO that such information is first notified to the family by police.

The SIO must always retain responsibility for the quality of files. Quality Assurance should be measured against the Manual of Guidance for the Preparation, Presentation and Submission of Files.

A policy should exist for handling undetected cases, most commonly those in which a driver has failed to stop. Such a policy will need to take into account the following:

- periodic reviews
- reviews in the light of new evidence
- reviews in the light of new lines of inquiry being established
- changes in legislation
- advances in vehicle examination or collision investigation techniques
- advances in forensic science.

2.20.2 Retention of files

It is recommended that files should be maintained for a minimum period of seven years to allow reasonable time for enquires from parties involved in civil litigation.

2.21 Witness issues

Part of the post-charge investigation strategy should address the needs of prosecution witnesses, particularly those who are likely to be called to give
evidence at the subsequent court proceedings. Witnesses may include close family, relatives and friends of the victim.

The SIO should recognise the fact that all witnesses are likely to find the prospect of attending court to give evidence to be stressful and, in some cases, daunting. Where the next of kin and family are involved special consideration given to the added grief and trauma they are likely to experience through and beyond the trial. Family Liaison Officers have a continuing key role in ensuring good communication with the SIO and by reducing emotions such as frustration, anxiety and hostility.

Any trial may commence several months after the original incident. It is important that all witnesses are kept informed of the progress of the case. A contact other than the SIO should be made available to all witnesses, so those individuals feel able to contact a member of the investigation team at any time.

 Giving evidence can be a nerve-wracking experience for witnesses. Their biggest ordeal is often the wait outside the courtroom door. Many Crown Courts in England and Wales have a witness service run by the Victim Support Scheme. This provides free and confidential advice and support to witnesses and victims’ families who go to court. It can include arranging visits to the court before the trial, providing information about how the court system operates or simply just sitting with witnesses in a supporting role.

In preparing for any subsequent trial, investigators must also consider juvenile, vulnerable or potentially vulnerable witnesses and their attendance at court. Video link evidence prevents unnecessary distress to child witnesses and provides the best environment for securing coherent and full evidence, without prejudice to the right of the accused to a fair trial. Some witnesses who are from minority groups may require special support in preparing them to attend court to give evidence.

Relatives, friends or associates of the victim may also be witnesses. Increasingly, incidents occur where such witnesses suffer intimidation, verbal threats, and/or physical violence from others attempting to dissuade them from giving evidence at court. Police Forces have varying arrangements for witness protection and it is important to ascertain the extent of the intimidation. It is recommended that SIOs consider police procedure in relation to Section 51(1) & (2), Criminal Justice and Public Order Act 1994 as well as liaison arrangements with other agencies, to reduce intimidation and reprisals.

If a witness expresses concern for personal safety or is subjected to threats the SIO must be informed immediately. Some Forces have Witness Protection Units who should be contacted and consulted regarding proposed courses of action.
2.22 Periodic reviews of all investigations into road death

Reference should be made to internal force policies regarding this issue and to relevant section of the ‘Murder Investigation Manual’.

The following information is taken from the ‘Murder Investigation Manual’ and amended for the purposes of road death investigation.

"…….. this section is intended to highlight the importance of regularly reviewing old cases. Inevitably, even once an investigation has been run down, there will be occasions when fresh information comes to light. This may result in the investigation being re-opened. In any event it is good practice to periodically review undetected road death cases. It is suggested this is undertaken at least every two years.

In particular, the officer undertaking the review will need to have a regard to advancements in forensic science, which might open up fresh investigative opportunities.

Forces should put into place systems to ensure periodic reviews of old road death cases do occur. To ensure this is done effectively, all undetected road deaths should have ongoing SIO ownership to overcome the lack of continuity caused by promotion, retirement etc, of the original SIO.

Following detection or a decision to terminate an investigation, hold a full debriefing session and ensure ‘all lessons learned’ are recorded for future reference”.

2.23 Other investigative considerations

It is important that the SIO should be aware of the wide range of potential offences that are likely to have been committed during the course of events leading up to a death on the road. A number of issues and offences are detailed below. The SIO should have a sound knowledge of all road traffic offences but he/she should not feel constrained from asking advice from others.

2.23.1 Manslaughter

There are a number of points the SIO may wish to consider before charging with an offence of manslaughter. Manslaughter in its ‘involuntary’ form is charged and indicted as ‘manslaughter’. It is triable by indictment only, is a class 2 offence, and has a maximum sentence of life imprisonment.

Manslaughter has been referred to as ‘unlawful killing without malice aforethought’. This is of little practical help and does not define which type of killings, in the absence of malice aforethought, are deemed unlawful. Recent judicial guidance suggests there are two categories of this class of killing that are regarded as unlawful and amount to manslaughter. These are killing by an unlawful act likely to cause bodily harm, ‘Unlawful Act’ or ‘Constructive Manslaughter’; and killing by gross negligence, ‘Gross Negligent Manslaughter’.
One further point should be noted regarding ‘recklessness’. The speech of Lord Mackay LC in *R v Adomako [1995] 1 AC 171* re-established the test of gross negligence rather than recklessness in manslaughter involving a breach of a duty to the victim. It was also held that the gross negligence test was of general application. Therefore, there should be no separate test for motor manslaughter.

**Constructive Manslaughter: Killing by an Unlawful Act**

Points to prove:

- that the defendant’s act caused the death of the victim
- that the defendant’s act constitutes a criminal offence in itself, which requires the proof of *mens rea* or some culpable state of mind e.g. criminal damage or assault
- that the defendant has the *mens rea* appropriate to that unlawful act which caused the victim’s death e.g. intention or recklessness
- that the defendant’s unlawful act would objectively be recognised as subjecting the victim to the risk of some resulting physical harm, albeit not serious harm.

Questions to be answered:

- Was the act the cause of death?
- Was the act intentional or recklessly done?
- Was the act unlawful, other than being negligently done or resulting in death?
- Was the act one that any reasonable person would realise was bound to subject some other human being to the risk of physical harm, albeit not serious harm?

All four questions above need to be answered in the affirmative before a charge of constructive manslaughter is considered.

**Gross Negligence Manslaughter**

Points to prove:

- that serious injury was foreseeable and therefore the defendant owed the victim a duty of care
- that the defendant’s act or omission was a breach of that duty
- that the defendant’s act or omission caused the victim’s death
- that the breach of duty is characterised as gross negligence
- that in all the circumstances the risk of death involved made the defendant’s conduct so bad that it amounted to a criminal act or omission.
Questions to be answered:

- Would serious injury to another be foreseeable by a reasonable person in undertaking this conduct?
- Was the victim a class of person who the defendant ought reasonably to have contemplated affecting by the conduct in question?
- Was the conduct in question adverse to the victim?
- Did the adverse conduct of the defendant result in the victim’s death?
- Has the adverse conduct of the defendant and the attendant risk of death to the victim made the defendants conduct criminal?

All five questions above need to be answered in the affirmative before a charge of gross negligent manslaughter is considered.

Other issues

Section 170 of the Road Traffic Act 1988 places a duty on a driver involved in a collision where personal injury is caused to a person other than the driver of that (mechanically propelled) vehicle, to stop. It can be argued, that if a driver fails to stop, knowing there is serious injury that could lead to death if not medically attended, and subsequently that person dies of their injuries because of either a deliberate or negligent failure to comply with sec 170 then a charge of manslaughter may be justified.

In *R v Mitchell [1989] RTR 186*, the court held that the Boswell guidelines, (see 2.23.2 below) though relevant, did not cover the whole picture and that where there was an element of hostility between the driver and his victim(s) the court was entitled to take account of the driver’s hostile motivation in assessing his blameworthiness.

Defences

In *Pommell [1995] 2 Cr App R 607* the Court of Appeal confirmed that the defence of duress applies to all crimes except murder and attempted murder.

Automatism and in certain circumstances mechanical defect (where a driver is deprived of control of a vehicle as a result of a defect that he has no knowledge of either real or constructive) are defences in law to motor manslaughter.

2.23.2 Dangerous driving

In *R v Boswell [1984] 1 WLR 1047*, the Court of Appeal gave detailed guidance as to sentencing in cases of causing death by reckless driving. Although dealing with the sentencing of offenders, the aggravating features set out in that case can give an indication of what constitutes dangerous driving at the higher end of the scale.
Some of the aggravating features relevant to dangerous driving in *Boswell* are:

− the consumption of alcohol or drugs
− the driver who races - competitive driving against another vehicle
− the driver who disregards warnings from his passengers
− a prolonged, persistent and deliberate course of very bad driving
− driving whilst a learner driver without a supervisor
− behaviour at the time of the offence, e.g. failing to stop or, even more reprehensible, trying to throw the victim off the bonnet of the car by swerving in order to escape
− causing death in an attempt to avoid detection or apprehension
− driving whilst disqualified.

The following list may be of general assistance as evidence of dangerous driving:

- the manner in which the defendant drove, e.g. on the wrong side of the road
- the speed of the driving
- the speed limit in force on that particular road
- the traffic conditions
- the condition of the road
- the state of the vehicle (s 2A (2) RTA)
- failure to comply with any traffic signs
- breaches of the Highway Code
- whether the defendant was suffering from impaired ability e.g. defective eyesight.

Questions to be answered:

- Was the death of the other person caused by something more than a slight or a trifling link by the defendant’s driving?
- Was the defendant driving the mechanically propelled vehicle at the requisite time or possibly shortly before that time?
- Was the driving on the road or a place where members of the public at large are admitted?
- Can it be shown that;
  − the driving fell well below that of the competent and careful driver and
  − that it would be obvious to such a driver that the instant driving was dangerous?
- Can any of the aggravating factors be shown?
- Regarding the condition of the vehicle or the driver, can any knowledge either real or constructive on the part of the defendant be shown?
In *Attorney-General's Reference (No 4 of 2000)* the Court of Appeal held that intent was irrelevant in cases of dangerous driving. The court stated; "Under section 2A of the 1988 Act, there were two limbs to the definition of "dangerous driving": first, that the driving fell far below that of a careful and competent driver; and second, that it would be obvious to a careful and competent driver that driving in such a way would be dangerous. Those essential limbs did not require any specific intent to drive dangerously. Section 2A set out a wholly objective test. The concept of a careful driver as an objective observer placed the question of what constituted dangerous driving within the province of the jury".

**Defences**

Automatism, mechanical defect and duress.

**2.23.3 Careless driving**

The joint police/CPS charging standards cites the following examples that may support an allegation of careless driving.

- Acts of driving caused by more than momentary inattention and where the safety of road users is affected, such as:
  - overtaking on the inside
  - driving inappropriately close to another vehicle
  - driving through a red traffic light
  - emerging from a side road into the path of another vehicle
  - turning into a minor road and colliding with a pedestrian.

- Conduct which clearly caused the driver not to be in a position to respond in the event of an emergency on the road, for example:
  - using a mobile telephone while the vehicle is moving, especially when at speed
  - tuning a car radio
  - reading a newspaper/map
  - selecting and lighting a cigarette/cigar/pipe
  - talking to and looking at a passenger which causes the driver more than momentary inattention
  - leg and/or arm in plaster
  - fatigue/nodding off.

Interestingly, the standard also states:

‘There will be rare occasions where an accident occurs and yet there is no evidence of any mechanical defect, illness of the driver or other explanation to account for why the accident happened. In these cases, a charge of careless driving may be appropriate’.

An example of this is found in the case of *Rabjohns v Burgar [1971] RTR 234*.

Here the defendant was unable to explain a collision and the facts of the case lead to an irresistible inference that it resulted from careless driving. In this instance
the defendant’s car collided with the wall of a bridge, leaving skid marks on the road. The weather was fine and the road dry. There was no evidence of the involvement of any other vehicle and no witnesses. The defendant did not give evidence or put forward any explanation. The Divisional Court held that the only conclusion possible on this evidence was that the defendant had driven carelessly.

2.23.4 Driving whilst impaired by drink and/or drugs

The incidence of driving whilst impaired is increasing. Initial research into fatal road collisions in 1985/87 examined the prevalence of drugs and/or alcohol detected in samples taken from victims. This exercise was repeated in similar research in 1998. A comparison of the results revealed that whilst alcohol remained the primary concern with more than 20% of fatalities being over the drink driving limit, notably there was a six-fold increase in the incidence of illicit drugs with an associated increase in the incidence of multiple drug use.

Procedure

ACPO guidance on police action at Personal Injury Collisions strongly recommends that all drivers should be screened for excess alcohol. It is important that investigators also consider the possibility of impairment by drugs. Where the officer has been appropriately trained, Drug Influence Recognition and Field Impairment Testing (FIT) should be considered. A driver’s participation in FIT is at present entirely voluntary. No requirement may be made. A flow chart of Drink Drug Driving procedures is shown in Figure 14.

National drink/drug drive pro-forma

Forms MGDD A-E (the national drink/drug drive pro-forma) must be used to process and record all drink/drug drive cases. The forms cater for all aspects of driving including back calculation, alcohol technical defence and offences under the Transport and Works Act.

Separate Forms MGDD/F and MGDD/Fa have been developed for the use of trained officers during Drug Field Impairment Testing. These forms may only be used in forces participating in the scheme. Whilst any officer may arrest and pursue an investigation under Section 4 RTA 1988, training in DRT and FIT is strongly recommended. The techniques provide for a structured approach to the assessment of impairment and the uniform presentation of evidence.

2.23.5 Drug Influence Recognition Training (DIRT) and Field Impairment Testing (FIT)

The DIRT and FIT drug recognition and testing techniques being taught to police officers and police surgeons in participating forces were developed following research in the United States of America and validation by the Transport Research Laboratory.

A driver stopped on suspicion of impaired driving, or following an accident or the commission of a moving traffic offence, will be required to provide an
alcohol screening test. Where this is negative but impairment is still suspected the driver may be requested to participate in a voluntary series of tests from which a trained officer will be able to gather additional evidence about the degree of any impairment and form a reasoned opinion about the class of the drug involved.

Examples of such drugs

- Cannabis
- Opiates
- CNS stimulants (e.g. cocaine, amphetamine, ecstasy)
- CNS depressants (e.g. benzodiazepine)
- Hallucinogens (e.g. LSD, Magic Mushrooms)
- Inhalants

Different drugs produce particular signs in a user and these can assist in identifying the main drug group. For example, opiates can give rise to constricted pupils while CNS Stimulants may produce dilated pupils. Some overlap between the signs and symptoms displayed can be expected, but each drug group is sufficiently individual to enable an informed opinion to be formed. Signs may include poor co-ordination and balance, slurred speech, drowsiness, facial itching.

Whilst the officer’s Drug Recognition Training will provide the knowledge to recognise the presence of drugs (for example an appreciation of the implications of facial itching) it is the associated Field Impairments Tests that will improve the assessment of any consequential impairment.

Fitness impairment testing should to be carried out by fully trained and authorised officers only.
2.23.6 Fatigue

Any driver who allows himself to be overcome by fatigue and falls asleep at the wheel is guilty of careless driving at the very least (*Kay v Butterworth* [1946] *110 JP 75*). Research by the European Sleep Research Society (J A Horne & L A Reyner) has found that fatigue in drivers is thought to cause at least 10% of all road collisions and 20% of collisions on motorways. Collisions relating to sleep are also more likely to result in death and serious injury as the collisions occur at high speed and drivers fail to brake. Research has also shown that drivers do not suddenly fall asleep without forewarning. There is always a very noticeable feeling of sleepiness well beforehand. Willpower and opening the windows or listening to the radio to try to keep awake have little real effect in reducing sleepiness.

The time of day is a crucial factor in cases of driver sleepiness, as most collisions occur between 2 to 6am and 2 to 4pm when the body’s own clock is programmed to be at low points. Collisions are also more likely if driving late at night or after a long working day especially if the journey involves travelling for long distances in monotonous conditions such as driving on motorways.

Age is also an important factor, with young men (typically 18 – 30 year olds) most at risk.

Certain groups of drivers, such as night shift workers, journalists, pilots and cabin crew, commercial drivers, students, doctors and nurses, police officers, and sales representatives, are at greater risk of having sleep-related collisions owing to long hours or sleep loss.

Data collected from sleep-related collisions suggest the following criteria may all apply:

- alcohol levels were below the legal driving limit
- the vehicle either ran off the road or ran into the back of another vehicle
- there were no signs of braking beforehand (no skid marks)
- there was no mechanical defect or tyre blow-out
- the weather was good and visibility clear
- speeding and driving too close to the vehicle in front were eliminated as causes
- police officer at the scene suspected sleepiness as the prime cause
- that for several seconds prior to the collision the driver could have seen clearly the point of run-off or the vehicle hit which would imply prolonged inattention rather than momentary distraction.

Most drivers involved in this type of collision will usually deny having fallen asleep. A denial of falling asleep may come from a fear of prosecution or loss of insurance indemnity or that they were totally unaware and genuinely had no knowledge of actually having fallen asleep.
SIOs should be aware that fatigue may be a casual factor to the collision and should investigate all avenues such as hours worked, type of work undertaken, medical conditions and the use of prescribed drugs.

2.23.7 Corporate liability

Criminal offences may be committed not only by an individual, but also by companies. Under the law, a corporation is defined as a legal person and may therefore be criminally liable for strict liability offences.

In any investigation of road death the SIO should consider where any alleged liability or culpability for the death may lie. There will be occasions when it is apparent that working regimes, illegal or dangerous practices or negligence have contributed to the death. It will be during such investigations that an SIO may consider liability in respect of corporate bodies and/or personal liabilities of officers within those bodies.

The investigation of corporate liability will not be limited to the investigations of commercial concerns but will include any organisation where there exists an employer/employee relationship and where a ‘duty of care’ is owed by:

- the employer to their employee
- the employee to their colleagues
- the employer to anyone affected by their work
- the employee to anyone affected by their work (including other employees).

There is little authority in criminal law on the subject of gross negligence manslaughter. Each case is a question of fact and degree as to whether or not a particular defendant has been negligent to the extent that his negligence has incurred criminal liability and whether such gross negligence has brought about death. The jury must be satisfied as to this and ‘duty of care’ is a matter of law for the judge to direct the jury on.

The elements required to establish negligence are:

- the existence of a duty of care
- a breach of that duty
- loss flowing from that breach. (In respect of a manslaughter charge the ‘loss’ cannot be less than death).

Any investigation must establish:

- the defendant owed a duty of care to the person killed
- the defendant has breached his duty of care, and the breach has led to the death
- the defendant’s negligence was so gross a jury would consider it justified a criminal conviction.
Some examples of conduct that could justify a criminal conviction.

- Indifference to an obvious risk of injury – e.g. an operator who has no regular system of preventative checks.
- Appreciation of a risk – coupled with a determination to run that risk – e.g. a fleet engineer or company director who identifies a defect in a vehicle and allows the vehicle to go out before the defect has been repaired.
- Appreciation of a risk coupled with an intention to avoid it and coupled with a high enough degree of negligence in the attempted avoidance for the jury to convict - e.g. a defect is identified and to rectify it a ‘bodged’ repair is done because a proper part was not available.
- Inattention or failure to avoid a serious risk which went beyond mere carelessness over an obvious and important matter which the defendant’s duty of care demanded that he should address - e.g. transport managers and company directors fail to ensure drivers of vehicles work lawful hours and have appropriate daily and weekly rest periods.

An aim of the investigation is to determine if there is a clear line of causation and effect from the ‘directing or controlling mind(s)’ to the unlawful act or omission. This is the key element which allows the charging of any individual who was a ‘directing or controlling mind’.

However, the investigating team must keep an open mind. It is possible for an individual to attempt to disguise their sole criminality as being the consequence of directions or actions given by other individuals in a company or organisation.

2.23.8 Use of health and safety legislation

If an investigation into a road death involves consideration of working practices that appear to be illegal or dangerous, or to have been applied negligently, then the SIO will need to establish an immediate liaison with the Health and Safety Executive. The HSE is a statutory body established under the Health and Safety at Work Act 1974. The HSE is responsible for making adequate arrangements for the enforcement of health and safety legislation and has a role to play in all investigations, which follow a work-related death.

A legislative framework of ‘duty of care’ has been established by the provisions of The Health and Safety at Work Act 1974. (HSW74)

SIOs should make themselves aware of the full provisions of the Health and Safety at Work Act 1974 and consider early discussion with the Health and Safety Executive to determine whether other Criminal Statutes are more suitable to be charged or if proceedings under the HSW74 are more appropriate.

There may be a need for a parallel investigation to carried out by HSE. Where this is the case particular care must be given to disclosure and unused material.
The agreement of the Director of Public Prosecutions will be required for the use of HSW74 by an investigating police force. This is because HSW74 places the onus/burden of proof (their actions were reasonable) on the defendant(s).

It is important to note ‘duty of care’ applies to Police Forces and Officers since the introduction of The Police (Health and Safety) Act 1997. Any Police Force is a corporate body. A protocol entitled “Work Related Deaths, a Protocol for Liaison” has been agreed between the HSE, ACPO and the CPS, setting out the principles for effective liaison in such circumstances. Of particular interest is Section 10(2) of the Reporting of Injuries, Deaths and Dangerous Occurrences Regulations 1995, which apply to a road-related death. The protocol is reproduced at Appendix ‘G’.

2.23.9 The road

The layout of a road, its associated facilities and features and its state of maintenance/repair can all be contributory to the occurrence and severity of a road traffic collision. However, each of these factors (and indeed, the relationship between them, as a collision is defined as a multi-factor event) is complex and it is a field where obtaining the advice of engineering specialists will prove extremely valuable, allowing an investigation to focus on key highway issues at an early stage. The performance of the highway authority responsible for the road where a collision has taken place is a vital consideration during such investigations.

Duties and powers of Highway Authorities

The highway authority has a wide range of duties and powers contained within a myriad of Acts of Parliament and regulations. In addition, national and local codes of practice enunciate good practice.

- Statutory duties are absolute and obligatory, i.e. they must be undertaken. An example would be: the highway authority’s duty to maintain the highway under Section 41 of The Highways Act 1980. Further duties are contained within legislation such as: The Road Traffic Regulation Act 1984, The New Roads and Street Works Act 1991 (Codes of Practice on the reinstatement of road excavations).

- Powers can be exercised when deemed appropriate. However, if a power is exercised, e.g. by undertaking highways improvement then there is a duty to maintain the resultant works.

When a collision has occurred and highway involvement is alleged then the highway authority should be able to show that it took reasonable measures to ensure that the safety of the road user was not compromised. It should be noted that when determining whether reasonable measures have been effected on any particular road, it is necessary to consider the character of the road and the nature of the traffic using it, i.e. not all roads are required to be maintained to the same standard. The prior knowledge held by the highway authority on a road is also of great significance, e.g. its collision record, whether any complaints had been
received from the public or local councils, and when inspections and surveys of the road have been undertaken and their findings.

In *Goodes v East Sussex County Council* (2000) *RTR 366 HL*, the House of Lords stated ‘that a highway authority’s duty under section 41(1) of the Highways Act 1980 to “maintain the highway” was an absolute duty to keep the fabric of the highway in such good repair as to render it reasonably passable for ordinary traffic at all seasons of the year without danger caused by its physical condition, but did not include a duty to prevent the formation of ice or to remove the accumulation of snow on the road …’

An in-depth investigation into the performance of the highway authority will typically seek answers to the following key questions:

- Were the policies, procedures and practices developed by the highway authority reasonable and well considered, when taking into account statutory duties, powers, and national and local best practice?
- Were the policies, procedures and practices developed by the highway authority consistently implemented?
- Did the highway authority act reasonably in response to all of the pertinent information it had available?

In order to answer the above questions, it is necessary to secure very specific information from the highway authority. This is an area where specialist assistance can again be extremely useful, to develop detailed lists of documents and information that should be sought and secured from the highway authority and other agencies. Securing information from a highway authority will often take time, so it is vital that the request to the highway authority is accurate, well considered and timely. Four distinct groups of documentation can be identified.

- High level, general policy statements – e.g. “A County Council will actively support the safe movement of traffic through the County”. Such statements are typically contained within the authority’s Local Transport Plan, public service leaflets.
- Specific local maintenance policies and standards – e.g. “the highway grass will be cut 4 times per year” or “any pothole reported by the public will be repaired within 24 hours”. Such information is typically contained within the authority’s Highway Maintenance Plan, Winter Maintenance Plan, Street Lighting Plan, Road Safety Plan.
- Authority Procedures – e.g. “skid test survey results will be analysed within one month of receipt”; and Programmes of Work/Prioritisation of Work – e.g. the application of policies set to develop a resurfacing, or Collision Investigation and Prevention works program. Such information is typically found in quality procedures, internal memorandums, procedure files and manuals etc.
- Works Records – e.g. works orders, invoices, work sheets, duty logs, diary entries, instructions to contractors/consultants; Inspection Records –
e.g. inspection logs/print outs; and Customer Care Records – e.g. call and correspondence logs (including out-of-hours logs).

Contracts with agents and either term or specialist contractors may also be pertinent to all four of these groups of documentation.

Analysis of the documentation and information obtained is obviously the next stage and the use of specialists (such as TRL) for this function is recommended. Typically, a specialist will be able to offer the option of: a preliminary verbal observation on the performance of the highway authority based on a brief assessment of the information obtained; a letter of advice on the key highways issues/the performance of the highway authority; and ultimately a full technical report.

Example showing the scope and detail of documentation likely to be required from the Highway Authority in the investigation of a vehicle skidding on frost or ice.

It is likely that the following documentation would be required by a specialist in determining the performance of the highway authority in such a scenario:

- national code of practice in place at the material time
- winter maintenance plan for the relevant period (and relevant details relating to its development and approval)
- documentation relating to the development and issue of winter maintenance salting routes
- evidence of staff training (e.g. driver City and Guilds certificates)
- specification of salt ordered and results of quality assurance checks
- various weather forecasts received by the authority
- details regarding climatic domains within the area and the provision, siting and maintenance of automatic weather stations
- thermal mapping
- data from an ice detection system
- details on drainage design and maintenance (if ice related)
- salting vehicle fleet listings and maintenance records for relevant vehicle/s
- salting instructions from client/consulting engineer to contractor (and confirmation of receipt)
- any contemporaneous notes made by the client/consulting engineer regarding the salting decision reached
- works supervisor logs (both client and contractor, as applicable) and works record sheets
- tachograph discs from salting vehicles, if available
- any data logger or black box information from the salting vehicles
- calibration records of salt spreading equipment
- details of staff rotas (decision makers, chargehands, supervisors, drivers etc)
- details of any monitoring/performance checks made
- reports of collisions at the material site in the last six years
- reports of collisions in the authority area in the 24-hour period
- details relating to any liaison with emergency services and the general public etc around the time in question, relating to adverse conditions at the location
- details relating to media coverage and local authority advice (at the beginning of the winter season) as to provision of winter maintenance services across the network
- details relating to liaison with adjoining authorities/bodies regarding winter maintenance decision-making.

As can be seen from the above, the investigation is in-depth and covers the development of policy as well as the authority’s works/actions on the particular day of, or days leading up to, the collision being investigated. This general approach can be adapted to most collision scenarios.

### 2.23.10 Important points to consider

**Road geometry**

This will ultimately have an effect on the perceptions and actions of a road user. Roads are required to be designed to national standards for alignment and visibility, although many of the more recent standards were not required to be retrospectively applied to existing roads. It is important therefore to consider provision against the appropriate standard of design during any investigation.

**Aids to movement and safety (signing, white lines and reflective studs)**

The provision, integrity and general condition of these features will also ultimately have an effect on the hazard perception of a road user. It is important during any investigation to ascertain the provision of such features at the collision scene at the time of the collision and where possible, the date of provision, and any factors influencing the choice of feature and their placement. The condition of white lines and mandatory road signs is particularly important in unlit, rural areas.

**Visibility at junctions and bends**

The appropriate maintenance of roadside grass and vegetation is vital in allowing road users to undertake safe manoeuvres at road junctions and bends. Guidance on national best practice for the maintenance of roadside vegetation is applicable.

**Road works and street works**

The quality of systems of traffic management (i.e. signing, lighting and guarding) at sites undergoing works by the maintenance authority or by statutory
undertakers is a continuing concern. The requirements and guidance for traffic management under Chapter 8 of the Traffic Signs Manual, and other advisory documentation are often complex. It should be noted that any non-compliance with Chapter 8 or the code of practice under Sec 65 of The New Roads and Streetworks Act 1991 (and especially with respect to a reduction in warning distances or failure to provide artificial lighting to signs and cones where required) has the potential to have an effect on the safety of the road user. The quality of excavation reinstatements made by statutory undertakers under the New Roads and Street Works Act 1991 can also have an effect on the safety of vulnerable road users e.g. motorcyclists and pedal cyclists.

**Maintenance of highway drainage systems**

There are a number of maintenance activities that are undertaken by a highway authority on a routine or cyclic basis. These include the cleansing/emptying of drainage features to attempt to ensure that the highway is not rendered unsafe by the presence of surface water. However, the concept of prior knowledge comes into play. If a highway authority is aware of an area or site that consistently floods during or after rain, then it can be reasonably expected that the drainage provision at that location should be subject to review. It is important that any investigation into a collision appearing to have the presence of surface water as a factor tries to accurately determine the extent and depth of the surface water and, where applicable, the cause of the surface water (e.g. a blocked gully or over flowing roadside ditch).

**Skidding resistance of the road surface**

The interface between a vehicle tyre and the road surface and the skidding resistance of a surface are extremely complex topics. The highway authority will typically undertake routine measurement of the wet skidding resistance of a defined network of its roads (but not all roads) using a SCRIM machine. It is worthy of note that other methods are available to the highway authority to measure the skidding resistance of a site that has a high collision rate. Research has recently been undertaken to compare the findings of police post-collision skid tests with the results obtained from tools used by the highway authority. It is important during the investigation of a skidding collision to ascertain when, and by what methods, the skidding resistance of the surface at the site has been measured. It is also important to note that any contamination of the road surface (by oils, solvents, mud) has the potential to have a drastic effect on its skidding resistance. It is therefore important to establish the source and, ideally, the exact composition of any surface contamination encountered at a collision scene.

**Containment systems (e.g. safety fences, guardrails, barriers)**

There are precise guidelines outlining the type, specification and location of the above features. However, it should be noted that such systems are only designed to retain certain vehicles in certain impact conditions. At the scene of a collision involving a safety fence, ascertaining the exact configuration and positions of the fence is crucial. The feature apparently protected by the fence (e.g. a sign or an
embankment) should also be detailed. Where a breach of the fence has occurred, obtaining samples of bolts, washers and damaged sections is recommended. Specialist advice on containment systems is recommended.

**The effect of adverse weather (e.g. flood, ice, snow, excessive heat)**

This is also a highly specialised field, but adverse weather is a causative factor in a proportion of road traffic collisions. It is important to consider whether the highway authority could have been reasonably expected to know about the adverse weather before it occurred and would have been able to do anything to have mitigated its effects (including prior routine maintenance of drainage features or the undertaking of precautionary salting operations). With respect to frost, ice and snow, the relationship between road and air temperature is extremely complex, and the area affected can be very localised. Investigations should focus upon whether the highway authority could reasonably have known that the collision location was prone to frost or icing. Specialist advice on the role and operations of a highway authority in advance of, or following, adverse weather is available.

**Summary**

Investigating the performance of a highway authority with respect to highway maintenance and provision, as a component of the determination of the causative factors of a road traffic collision, is an extremely specialised field. Accordingly, it is recommended that advice be sought from suitable specialists (such as the Transport Research Laboratory) at an early stage in any investigation to ensure that it is efficiently focused. This section has briefly discussed a number of the issues to be considered in assessing the performance of the highway authority in a road traffic collision scenario.

**2.23.11 Medical aid**

There have been occasions where negligent medical assistance has had a detrimental effect on the outcome of a serious collision. Such negligence may result in the unnecessary death of a road collision victim. SIOs should be aware of all first aid and medical treatment given so as to assure the family and courts that all that was done medically was of the highest standard and did not hasten the death of a victim. First aiders are often well intentioned but at times can be a hindrance.

**Officers should be aware that bogus paramedics and doctors have been known to attend road crash scenes. If any officer has any reason to suspect this is the case then identification of that person should be sought.**
3. Vehicles

3.1 Vehicle examination

Examination of the vehicles involved in a collision involving death, or potential death is most important in order to:

- establish the previous mechanical condition of the vehicle and to ascertain or discount the possibility of a mechanical failure which may have caused or contributed to the collision
- obtain any forensic evidence that may assist in a prosecution
- to establish the position of the driving and other controls and components which may have had an influence on the position or movement of the vehicle prior to the collision or may provide such information
- obtain details of the position and extent of any damage which might be required to ascertain pre-impact velocity or direction, relative to other vehicles, pedestrians or other objects involved in the collision.

Any parts of a vehicle removed for any purpose must be treated as exhibits and a full record of their continuity must be assured. It should be normal practice for any components removed from a vehicle during an examination by another agency, such as the Vehicle Inspectorate, to be retained by the police and produced at any court hearing for the witness. The general principles contained in form MGFSS will apply to whichever laboratory is used for analysis.

3.1.1 Mechanical condition

It is most important that a suitably qualified person examines vehicles involved in any fatal or potential fatal collision, as soon as is practicable. Examiners should be aware of local policy in relation to the examination of vehicles. There are many hazards present on crashed vehicles, particularly those involved with fire. The examiner’s health and safety should always be considered. Ensure that any vehicle to be examined is safe to examine, even where expert advice at the scene suggests it may be safe to recover.

Sufficient detail of the component parts of a vehicle should be noted. Many collisions can lead to civil cases and the examiner may be called to give evidence many years later. In all cases where component failure is established or suspected, the services of an expert should be considered. The Forensic Science Service and others can provide expert evidence from metallurgists and other scientists.

Some form of vehicle failure is frequently put forward as an explanation for a collision. In the majority of cases, collisions arise out of bad driving, and examination of damaged components shows their failure was a consequence of the collision and not a cause. For example, 80% of tyres sent to one laboratory for examination as a possible cause of a collision were shown to have been intact until the incident and failure had been caused by collision damage.
Components examined regularly include:

- steering
- suspension
- tyres
- brakes
- light bulbs.

### 3.1.2 Larger vehicles and the role of the Vehicle Inspectorate

The examination of larger commercial vehicles requires specialist knowledge. Examiners should be suitably qualified and updated in order to carry out these examinations.

The Vehicle Inspectorate has this expertise. Consideration should be given to utilising it. In any case where the services of the Inspectorate is anticipated, it is the responsibility of the police to ensure that a vehicle is recovered from the scene to a safe environment for an examination to take place. A Vehicle Inspectorate examiner would not normally be asked to attend the scene of a collision, but if it is deemed absolutely necessary their health and safety needs to be assured.

Where vehicles are examined by the Vehicle Inspectorate on behalf of the SIO, any component or samples removed from these vehicles should be retained by the police Exhibits Officer and produced at any court hearing for the vehicle examiner.

*Nothing in this section is intended to prevent local arrangements from being agreed with the Vehicle Inspectorate.*

The investigation of any fatal or serious collision is the sole responsibility of the police but the Vehicle Inspectorate does have a responsibility to the Traffic Commissioners and the Minister in relation to the use of large goods and passenger-carrying vehicles. The two agencies work together in a spirit of cooperation and mutual assistance.

Any vehicle over 3,500 Kg gross weight and any passenger-carrying vehicle with more than 8 seats which is involved in any fatal or potentially fatal incident, should, as a matter of course, generate a notification to the Vehicle Safety Branch of the Vehicle Inspectorate at Bristol.

The notification should include details of the vehicle(s) and full name and contact details of the SIO and Investigating Officer. The Vehicle Inspectorate should endeavour to make contact with the police within 24 hours and discuss what form any assistance might take. In enquiries relating to undertakings, the Inspectorate may also be able to provide experts and data relating to the previous history of operation and may be able to supply expertise. This support may be particularly useful where a transport operation is based a long distance away from the incident.
3.1.3 Forensic examination

When a motor vehicle comes within the sphere of police interest, it is often because an offence has been committed and prosecution may ensue. Testing the evidence of witnesses can often be done by a forensic scientist at a laboratory or other convenient location. From the scenes of crime point of view, all vehicles should be treated as ‘mobile’ scenes, subject to all the usual exchange of material that is associated with ‘static’ scenes.

The Forensic Scientist can provide evidence at two stages of the investigation:

• intelligence – that is evidence that may help to establish the identity of the vehicle(s) involved in the incident
• corroboration – that is provision evidence to prove the relationship between
  - a motor vehicle with another motor vehicle, object or person
  - a motor vehicle with another scene
  - a motor vehicle with property or persons conveyed in it.

Contact trace evidence in road traffic collisions falls into two broad categories.

• Items originating from vehicles, for example paint, glass, trim or tyre-marks.
• Materials, mainly of biological origin, deposited by the victim and often on the vehicle that struck them.

3.1.4 Paint

This is probably the most common material found following a collision. The force of the impact causes smearing and chipping of the paint on the vehicle.

When flakes of paint are recovered, several examinations can be carried out. Colour, layer sequence and the composition of the paint can be compared with control samples taken from the suspect vehicle. These comparisons are accomplished by a variety of microscopic techniques and chemical analysis of the paint where appropriate. If only smears of paint are present, the examinations are more difficult but useful results can still be obtained.

The evidential value of paint is dependent on many factors such as whether it is a manufacturer’s finish or from a re-sprayed vehicle. Paint from a re-sprayed vehicle consisting of only a few layers can provide very good evidence whereas a manufacturer’s finish is usually of less significance and only provides corroborative evidence of contact. However, if two-way transfer of paint between two vehicles, or of paint to a victim’s clothing and fibres or blood to the vehicle has occurred, then the evidential value will be improved even when the paint is a manufacturer’s finish.

For paint comparisons at least two samples should be taken from each vehicle involved, one from the damaged area and a control sample from a nearby,
undamaged area. If there is damage to more than one part of the vehicle then further samples should be taken with suitable controls. Always ensure that a fresh scalpel blade is used for taking each sample, and the samples taken go right down to the metal so the full layer structure of the paint is represented.

3.1.5 Glass

Glass is broken in many collisions and can provide good corroborative evidence of contact. Glass evidence can be useful in placing people inside the vehicle at the time of the collision if the windscreen or any of the other windows has been broken.

If for example the driver leaves the scene before the police arrive, it may be possible to show that he was in the vehicle at the time the window was broken. To do this, the clothing and hair combing taken from the driver are examined for glass particles and any found are compared with the broken vehicle glass.

3.1.6 Light bulbs

Light bulbs that fail do not cause collisions. However, failure to see the other vehicle causes many collisions and in such circumstances, a claim “he didn’t have his lights on” is common - particularly in motorcycle collisions. Examination of a broken light bulb can establish whether it was alight at the moment it failed.

An operating light bulb is extremely hot and thus the filament is soft and easily distorted, unlike its brittle nature when cold. Moreover, in the presence of air tungsten oxide forms easily and is then deposited as a yellow powder on the cooler parts of the bulb. The white-hot filament will also melt any fragments of glass that strike it, forming small glass beads.

The presence or absence of these phenomena enables the scientist to determine whether or not the bulb was alight when it broke. Furthermore, distortion of a white-hot filament will occur even if the glass envelope does not break. Thus, it may be possible to express an opinion about the state of an unbroken light bulb that has been involved in a severe impact.

The electrical system powering bulbs must not be tested until damaged light bulbs have been removed.

3.1.7 Plastic

Plastic is widely used in the construction of motor vehicles. It can be seen as bumpers or other exterior trim and usually forms a large part of the interior facings and dashboards. With the extreme forces exerted during an impact, plastic can be melted by friction and transferred or smeared onto the victim’s clothing.

The type of plastic used for different interior trim components varies. Thus these smears on clothing can be used to establish who was sitting where within the vehicle.
3.1.8 Impact position re-constructions

It is sometimes possible to place two or more vehicles back together in the position they would have been when they collided. This re-construction of the impact position may give valuable evidence but must not, under any circumstances, be attempted until all forensic examinations of the vehicles have been completed and the results known. Until that time the two vehicles must be kept apart, preferably at different storage locations.

3.1.9 Pedal impressions

It is possible for the cover on a vehicle pedal, or the pedal itself in the absence of a cover, to impress its pattern onto the sole of the driver’s shoe. The impression is a consequence of the extreme forces exerted during a collision. Normal use of the pedals would not give rise to these impressions.

Marks of this type on the soles of shoes have been useful in some cases. For example, in a collision where the occupants have been thrown clear of the vehicle, it may be possible to show who was the driver by examination of their shoes. Such marks can also be used to show whether a driver was accelerating or braking at the time of impact.

3.1.10 Carbon Monoxide poisoning

Carbon Monoxide is present in significant quantities in some car exhaust systems and in low concentrations can cause drowsiness, headache and nausea. Exposure to high concentrations can rapidly lead to unconsciousness and death. This factor does not appear to be considered very frequently. A timely examination of a vehicle’s exhaust system may give an early indication of the likelihood of this type of poisoning.

HM Coroner advises that if a Police Officer is aware of any possible concerns in respect of the possibility of Carbon Monoxide poisoning (or the inhalation of any volatile substances) then the issue should be highlighted at an early stage to the pathologist. Some tests need to be carried out within 12 hours of death to be of any value. Any delay in communication could result in evidential loss to the investigation.

3.1.11 Air bags

In recent years, air bags fitted as a safety device have become almost a standard feature to all new vehicles. Their design is intended to minimise or prevent injury during an impact or collision, but there have been recorded cases in the United Kingdom where the Coroner has recorded death as being caused by airbag deployment causing fatal injury. These are isolated examples but highlight the fact that such incidents must be investigated thoroughly.

Officers should refrain from giving opinions as to whether or not an airbag should have been deployed. This is a matter for the manufacturer.
In cases of road death where an airbag has been deployed, the Coroner must be notified, likewise the pathologist. In such cases, a Home Office Forensic Pathologist may be the most appropriate individual to conduct the post mortem examination since it may be possible to establish the presence of injuries which would not have occurred had the airbag been deployed correctly.

In the rare situation that occupants are trapped directly behind an un-deployed airbag, special procedures should be followed:

- disconnect or cut the battery cables safely
- do not cut or move the steering column until after the system has been fully deactivated (remember airbags have backup batteries)
- do not place the body or any objects against the airbag module
- do not cut into the airbag module.

To enable a safe working environment, there are mechanical devices available to fit over the steering wheel with the intention to restrict the deployment of the airbag. Likewise, some vehicle manufacturers fit switches to disable the airbag(s). Officers should also be aware of passengers and side impact airbags that have not deployed.

3.1.12 The position of seats mirrors and controls

Before any attempt is made to recover any vehicle, it is good practice to note the position of the driving controls, switch settings and the position of such components as gear levers. Where it is necessary to change the condition or position of anything to affect the recovery of the vehicle or the rescue of persons every effort should be made to record the original position, by photography if possible.

Recording of original settings is particularly important if larger commercial vehicles need to have brake adjusters moved to facilitate towing. It is always preferable to re-pressurise a braking system to allow towing wherever possible. If this is not possible, a simple comparison of brake drum temperatures can serve to prove or discount the fact that any particular brake was operating. Beware, these components can be very hot!

3.2 Collection of vehicular exhibits

The collection of exhibits again requires care and thought. Only a person with the requisite skills should be permitted to recover mechanical components from a vehicle (e.g. a suitably qualified Vehicle Examiner). Under some circumstances, it is likely that a Scenes of Crime Officer will be asked to assist. Where this is impractical, good practice guidelines should be followed.

- If a mechanical failure is suspected, or alleged, and components are to be examined, attempt to obtain both halves of the component.
- If components cannot be submitted to the laboratory straight away, try to protect fracture surfaces from corrosion by smearing them with oil or
grease. If lack of, or excessive, lubrication may be the reason for component failure, this should not be done. Reference should be made to the metallurgist who will later examine the components.

- Remember, the metallurgist’s examination of the component may be simplified by an examination of the rest of the damage to the vehicle.
- In many cases, it may be easier to take the scientist to the vehicle than vice versa.
- Tyres should be submitted still on their wheels and no attempt should be made to re-inflate them.
- Ideally, a sample of brake fluid should be taken from each bleed nipple as well as the master cylinder since the oldest and most contaminated fluid is found in the wheel cylinders. This is caused partially by the difficulty in completely flushing old fluid from the system and partially by the slight permeability of the rubber brake hoses to water vapour. This should only be undertaken by a qualified person, such as a Vehicle Examiner.
- Brake pipes and hoses for examination should be submitted complete by undoing, rather than by cutting, the pipe. Master and slave cylinders and brake servo mechanisms should be removed and submitted without testing or dismantling them. The major problem with a light bulb is packing it in such a way that no further damage is done to the bulb. Taping the bulb to the bottom of a shallow cardboard box often works well.
- Where items such as crash helmets are bloodstained, particular care should be taken in their handling and packaging to eliminate any possible health risks arising out of contact with body fluids. The outside of such packaging should clearly be labelled “Bio-Hazard”

Investigators should be mindful of the principles of contamination of the scene, perhaps by persons who may have been with a potential defendant.

3.2.1 Other forensic assistance

The recovery of extraneous hairs and fibres from seats may confirm the presence of specific people within the vehicle.

Do not overlook other forms of evidence of value. Examples are: cigarette ends [particularly for DNA], parking tickets, correspondence, false registration plates if fitted and or altered/false Vehicles Excise Licence (when a note should also be made of the chassis number of the vehicle), boot contents, condition of locks.

As much information as possible about the collision should be given on the laboratory form since the scientist’s conclusion may be modified in the light of the circumstances surrounding the collision.

3.2.2 Tachographs

As has been seen, collision investigation often involves the calculation of the speeds, distances apart and time periods present between vehicles or a vehicle and other road user. In the case of commercial vehicles with numerous wheels,
some of which are designed not to lock under the action of heavy breaking, speed calculations from tyre marks present a complex and often impossible problem.

Fortunately, tachograph instruments fitted to all goods carrying vehicles over 3.5 tonnes and to large passenger carrying vehicles provide a permanent record of a vehicle’s speed, the distances covered and times taken, on a paper chart. The tachograph can therefore be utilised as a heavy vehicle “black box flight recorder”. This is an adaptation of its primary function, namely the enforcement of drivers’ hours legislation. Whilst simple magnifying glass analysers sold to fleet operators are useful for monitoring drivers’ hours, detailed analysis of the speed trace on the chart, as carried out at the laboratory, requires the use of specially adapted microscopes. Microscopic analysis of the chart enables the speed of the lorry to be measured at small time intervals on its approach to the collision. From these measurements, a second by second picture of how the vehicle was being driven can be built up. Investigators should also bear in mind the following points.

- The speed recordings in Digital tachographs are only maintained for the previous 24 driving hours and then overwritten. It is therefore imperative this data is downloaded as soon as possible following a collision.
- Alongside digital tachographs, smart cards are issued to drivers, enforcers, companies and calibration stations. At the scene, it is important to obtain the driver’s card. This will contain detail of the driving of vehicles equipped with digital tachographs over the previous 28 days (max).
- It is recommended that conclusions are not drawn from the analysis of a tachograph chart examined by eye or by using simple analysers. Consider that the thickness of the line on a tachograph chart analyser can represent 20 seconds - and how much can happen in 20 seconds at a collision.
- If the wheels on the driven axle lock up during skidding, an accurate analysis of the deceleration of the vehicle may not be ascertainable from the chart as the speed stylus will immediately drop to zero. Likewise, the speed pointer and stylus of some tachographs can operate so slowly that the vehicle comes to a stop whilst the tachograph stylus is still returning to zero.

Tachograph charts consist of a wax coating on carbon black backing paper. Handling can easily soil them. Charts therefore need to be protected from scratches or other markings and kept flat and unfolded. A suitable method is to sandwich them between cardboard and place inside an envelope or a shallow box.

The use of charts will be replaced with a driver’s smart card which will hold data relating to the driving of all vehicles fitted with digital tachographs over the previous 28 days.
3.2.3 Submission required for forensic analysis of the tachograph chart

For the accurate analysis of any tachograph chart to be made, it is important that the tachograph installation from the vehicle that made the chart be fully inspected for integrity and accuracy of recording. This verification should be carried out by persons suitably trained to a standard agreed by ACPO, normally an appropriate City & Guilds Institute of London qualification in tachograph calibration. In many cases, the Collision Investigator will undertake this work.

The mere checking of the tachograph instrument itself may not be adequate. Many means of circumventing the proper recording by the system exist. Alteration of the tachograph calibration has become prevalent since the introduction of mandatory road speed limiters. Such alteration frequently takes place to disguise the fact that the speed-limiter has been disabled. Additionally, there are examples of many types of electronic devices and additional wiring being used to stop the tachograph functioning accurately, or at all.

To identify if the record is accurate, or to prevent an element of doubt being later introduced, it is recommended that the entire system, wiring and components be checked.

All forensic science laboratories require a minimum level of verification, including the preparation of a test chart. The information required by all laboratories varies and the requirements of an individual laboratory should be checked before submission.

3.2.4 Route-tracing from tachograph charts

The examination of tachograph charts can also provide other useful information about a vehicle’s route. In this role, charts from abandoned vehicles can reveal where unloading and other stops took place together with the times of those events. A thorough search of the vehicle’s cab should be made in case charts have been removed and left discarded. Where chart removal or some tampering with the instrument is evident, examination for the detection of fingerprints should be considered first.

3.2.5 Submission required for route-tracing from tachograph charts

The following questions need to be answered.

- When was the chart inserted in the instrument?
- What journeys were made (time and distances)?
- What is the relationship between real time and clock time?
- Is the 24 hour clock set correctly, or 12 hours out of phase? (Use chart).
- Is there a second chart in the instrument?
- What is the precise position of any relevant location? (Map references or marked map).
- Which way was the vehicle facing?
• Where was the vehicle found abandoned? (Map reference).
• Again, in which direction was it facing?

The following steps should be taken.
• Look for a calibration plaque inside the head or elsewhere in the cab-record details?
• If possible, pass on information of likely suspects, ie addresses.
• Give any relevant intelligence information.
• If no charts are present in the instrument
  - look for loose charts in the cab, at the scene or on the driver;
  - submit the plastic stylus protector.

In all cases of route tracing discuss with the scientist any submission to the laboratory.

3.2.6 Road speed limiters

The disablement of speed limiters is widespread amongst the commercial vehicle population. There are many types of device on the market and newer vehicles are fitted with limiters that operate through the vehicle’s engine or other management electronics. Some drivers/operators disable the limiters completely, others manipulate the speed at which they operate. The methods of disablement are as many as there are systems. In general, they tend to have two things in common:

• the control units require power to operate
• information of vehicle speed is obtained from the tachograph

Stopping, or adjusting the calibration of, the tachograph has an effect on the speed at which the limiter operates. In the latter case, reading the tachograph chart in isolation will indicate that the speed limiter might be operating although this may well be at the incorrect speed.

For this reason, never make assumption about the behaviour of the vehicle by analysing the tachograph chart until the entire system, and the veracity of the recordings, has been verified.

3.3 Tachograph and speed limiter manipulation

The investigation of a serious road traffic collision involving a commercial vehicle fitted with a tachograph and/or a speed limiter cannot be complete unless an in-depth examination of these systems has been completed.

More and more operators are fiddling with the systems in order to squeeze a few more Kph or more driving hours out of the vehicle to increase profitability. Excessive speeds are disguised by altering the tachograph calibration settings, while excessive driving time is disguised by disabling the tachograph.

Despite EC requirements for diagnostic tachographs designed to indicate power and signal interruptions, the determined operator has developed various methods
to overcome these safeguards. Some are very basic while others are very complex.

A collision reconstruction involving a tachograph calibration and chart analysis would be incomplete if the integrity of tachograph system had not been investigated. A thorough examination would reveal whether the system had been interfered with. This may suggest that the driver who has apparently had plenty of daily/weekly rest may well have been driving continuously for long periods, so becoming dangerously tired.

This could provide valuable information to an interviewer, especially in collisions where there appears to be no apparent cause.

A ‘Guide to Tachograph and Speed Limiter Interference’ has been produced to assist examiners deal with what is, sometimes, complex interference with the equipment. It includes chapters on each type of tachograph and speed limiter and vehicle manufacturer. The chapters include breakdowns on the systems in current use, as well as information on known methods of interference.

The manual is designed for use by any authorised enforcement officer during the examination of a tachograph/speed limiter system, to enhance their ability to discover any illegal interference. It has the capability to be updated by the use of information from the manufacturers as well as officers in the field.

The manual is being adopted by the ACPO Roads Policing Committee and will be circulated by each force in accordance with their own internal policy.

### 3.4 Foreign vehicles

For these purposes, it is intended that a foreign vehicle should be considered as any mechanically propelled vehicle which is registered in neither Great Britain nor Northern Ireland and which is temporarily within the United Kingdom. This will include the foreign registered vehicles of a UK based operator, commonly referred to as “Flagged Out”.

The primary consideration when dealing with a foreign vehicle is to retain evidence, given the likelihood that such a vehicle may be taken abroad after release and may not, thereafter, be available to either the SIO or the defence.

Foreign vehicles may need to be retained for one or more of the following reasons:

- to check the mechanical condition
- to undertake a forensic examination
- verify the tachograph calibration
- to produce them as evidence
- to comply with the provisions of *R v Beckford (1996)* *1 Cr App R 94* in order to allow the defence adequate access to the vehicle (refer to retention under exhibits)
to comply with any potential defendant’s rights to examine the vehicle in accordance with the right to a fair trial within the Human Rights Act.

If the vehicle, or part of a vehicle combination is loaded, consideration could be given to the early release of the load. Under such circumstances, it might be prudent to arrange for the weighing of the vehicle, both gross and axle weights, before unloading. Weighing should be undertaken in accordance with the Vehicle Inspectorate/Trading Standards weighing protocol on an approved weighbridge where possible.

In cases where the co-operation of the driver and/or owner is not forthcoming and it is necessary in the interests of justice to ensure vehicles are not immediately removed, it might be necessary to consider police powers in relation to the searching and retention of vehicles.

3.5 Powers of search and seizure of vehicle

Remember, in addition to the police officer’s power to stop vehicles, it may be worth considering the statutory powers to search persons and vehicles before arrest, in accordance with PACE and Code A of the Codes of Practice. The reasons for such a search are restricted but may be applicable. The relevant reasons for searches are contained in the Annex to Code A. It is necessary to inform the driver of the identity of the searching officer and to complete the written record of search. The latter also applies if an unattended vehicle is searched.

3.5.1 Seizure of evidence under Common Law

Wherever possible, statutory police powers should be adhered to. In 1984, PACE conferred the powers for officers when lawfully on premises (Section 18, 19 & 32) or when stopping and searching persons (Section 1).

The common law principles of seizure remain and can be useful in some cases not catered for within PACE

The main principles of seizure under Common Law were set out in the case of Ghani v Jones (1970) 1QB, where Lord Denning set out to clarify and define the common law powers, balancing the requirements of justice but whilst safeguarding the rights of the public. The case sets out five principles, which are set out below.

Before any item is seized, the following points should be understood.

- The police officer must have reasonable grounds for believing a serious offence (not defined but may equate to an arrestable offence) has been committed.
- There must be grounds for believing the article is either the fruit of the crime or was the instrument by which the crime was committed or is material evidence to prove the commission of the offence.
• The police must have reasonable grounds to believe the person in possession of the item has himself committed the crime or is implicated in it or is an accessory to it or the refusal is quite unreasonable.
• The police must not keep the item for longer than is reasonable to complete their investigations or preserve it for evidence. If a copy will suffice, it should be returned.
• The lawfulness of the conduct of the police will be judged at the time and not by what happens afterwards.

The main principle to remember here is that the laws of England and Wales jealously guard the individual’s right to personal freedom and the right to possess his goods without interference, a principle now reinforced by the Human Rights Act 1998.

3.5.2 Tachograph installations

Section 99(2) of the Transport Act 1968 also states an officer may, on production if so required of his/her authority at any time enter any vehicle to which part of the Act applies and the inspect vehicle and any [tachograph] recording equipment.

Section 99(3) provides a power to detain a vehicle for the purposes of exercising the power under section 99(2).

3.5.3 Tachograph charts

Whilst there is no strict power of seizure of tachograph charts under the Transport Act, it does confer a right to inspect and copy. The Crown Prosecution Service advise that the power to inspect infers a right to remove the chart to undertake this function properly, as it is usually not prudent to do so at the roadside. Tachograph charts are evidence of many things and SIOs might consider the use of alternative powers to seize charts where they are required to be analysed in the course of an investigation, particularly the powers of search and retention given within PACE, if the driver is arrested.

The requirement to return charts to an operator within 21 days does not apply to foreign vehicles. There may be significant numbers of charts found within the vehicle.

3.5.4 Powers of examination of vehicles (and detention for the purpose)

S67 Road Traffic Act 1988 states an authorised examiner may test a motor vehicle on a road for the purpose of ascertaining whether the following requirements are complied with, namely:

• the Construction and Use Regulations requirements, and
• the requirement that the condition of the vehicle is not such as its use on a road would involve a danger of injury to any person.
Temporarily imported vehicles are exempt from the requirements of many of the Construction & Use Regulations. Those regulations which they are subject to include the requirements relating to the maintenance of brakes and steering, weight and most dimensions of width and length. Foreign vehicles are not exempt from prohibition where their use is likely to cause danger under Regulation 100 Road Vehicles (Construction and use) Regulations 1986 or Section 40A Road Traffic Act 1988.

The Act empowers an examiner not only to drive a vehicle subject to a roadside check, but also to require the driver to comply with reasonable instructions. This enables a single examiner to check compliance with construction and use requirements, which can only be properly checked when the vehicle is in motion.

The driver may elect that the test shall be deferred to a later time under normal circumstances. Where, however, the vehicle has been involved in a collision, or the vehicle is defective and the examiner requires a test to be carried out immediately, they may require it to be so examined and may detain the vehicle while the test is carried out.

3.5.5 Vehicle components from vehicle examinations

Where components are removed from vehicles during the investigation, they should be protectively packaged to reduce the risk of further contamination or damage.

Care should be taken when examining and/or removing electronic storage devices because of the loss of data that can occur through, for instance, magnetic fields. Some electronic data recorders are volatile and may dump their contents if disconnected from the electrical supply.

3.5.6 Health & safety

Some component parts of vehicles can present a health risk and should be handled, packaged and labelled with care. Examples of such a risk include some components from burnt vehicles, bio-hazards and sharp edged articles.

3.5.7 Seizure and retention of vehicles as exhibits

The vehicle should normally be retained until conclusion of the prosecution and any periods for appeal. Where there is any possibility of a latent defect the vehicle should always be retained.

If, for any reason, consideration is given to disposing of the vehicle or releasing the vehicle to its owner, this should not be done without consultation with the CPS at senior level, such as Prosecution Team Leader or equivalent.

The condition of a vehicle involved in a road collision may be relevant to the prosecution of the driver. For example:

- the existence of a causative defect known to the driver may be evidence of dangerous driving
• the existence of a causative latent defect may be relevant to either the prosecution or defence case
• the absence of any causative defect may assist in establishing that it was the manner of driving which led to the collision.

In the case of *R v Beckford [1996] 1 Cr App R 94*, the Court of Appeal stated that the police should never give permission for a car to be scrapped where serious charges are to be brought which might involve the possibility of some mechanical defect in the vehicle. As far as possible, the vehicle should be preserved in its post-collision condition.

### 3.5.8 The legal position

The advice of the Crown Prosecution Service National Policy Group is reproduced below:

If an accused person is deprived of an opportunity to have the vehicle independently examined, there are three possible routes for a defence challenge. These are:

• application to stay the prosecution because of an abuse of process
• application for exclusion of evidence under section 78 PACE 1984
• application to stay the prosecution because the accused has been deprived of his right to a fair trial under Article 6 of the European Convention of Human Rights.

### 3.5.9 Abuse of process

An accused having been deprived of an opportunity to have an independent examination of the vehicle may seek to argue that any prosecution is an abuse of process. To succeed with such an argument the defence will have to show their case has suffered serious prejudice to the extent a fair trial is impossible.

### 3.5.10 S78 PACE 1984

If the prosecution seek to rely on evidence concerning the condition of the vehicle the defence may argue that having been deprived of their own inspection, admission of the prosecution evidence would have such an adverse affect on the fairness of the proceedings the court ought not to admit it.

### 3.5.11 Vehicles and Human Rights legislation

An accused, deprived of an opportunity to inspect the vehicle, may claim there has been a breach of Article 6 - the right to a fair trial. In considering whether a breach has occurred, the courts will have particular regard to whether the police and the CPS have acted in a way that is incompatible with the rights of the accused.

The owner of a vehicle who is not the accused may claim that the retention of the vehicle by the police may be in breach of their Human Rights.
In Sporrong and Lonnroth v Sweden (1982) SEHRR 35 the Court accepted that in such cases it would be necessary to consider whether a fair balance was struck between the demands of the general interests of the community and the requirements of the protection of the individual’s fundamental rights.

A vehicle involved in a fatal or very serious injury road traffic collision may be an important evidential exhibit. As such, it should be seized and retained to enable expert opinion to be obtained on the condition of the vehicle. As far as possible, the vehicle should be preserved in its post-collision condition.

Information concerning the seizure and the retention of the vehicle should be included on the file. Any difficulty concerning the retention of the vehicle should be highlighted.

If the CPS advises proceedings should not be brought, the vehicle should be retained for such time as would allow the victim’s family to make representations.

Where a driver has been charged with or served with a summons for an offence as a result of the collision, the vehicle should be retained until the accused has had opportunity to have an independent examination of the vehicle.

3.5.12 Independent examination on behalf of the accused

Once a decision has been made regarding a prosecution, the accused or their legal representative should be notified of the location of the vehicle and be invited to arrange a further independent examination.

The process of examining the vehicle and obtaining the defence expert’s statement may take time. The accused may have to arrange legal aid and ensure that it covers the additional expenses involved. No decision should be taken concerning disposal of the vehicle until the defence have had ample time and opportunity to arrange a further inspection, after having been notified of the location of the vehicle.

3.5.13 Disposal and destruction of the vehicle

In a case involving death or serious injury, a vehicle should normally be retained until the conclusion of the prosecution and any periods of appeal. Where there is any possibility of a latent defect defence the vehicle should always be retained.

If consideration is given to disposing of the vehicle or releasing the vehicle to its owner, this should not be done without consultation with the CPS at a senior level.

Where it is proposed to dispose of the vehicle or release the vehicle to its owner, even when a defence expert has given a statement, consideration should be given to whether it is appropriate to retain any part of the vehicle which might have evidential value.
If a motor vehicle is released to an accused who is also the owner, advice should be given to retain and preserve the vehicle. In such circumstances, if the vehicle is subsequently disposed of it is unlikely an accused could argue the right to a fair trial has been compromised.

Where a seized motor vehicle does not belong to the accused, it should not be released to the owner unless an undertaking is given to retain the vehicle in its post-collision condition. In such circumstances, the accused or their legal representative should be notified.
4. **Police-related road death**

All police-related road death should be investigated in accordance with the procedures and protocols recommended in this manual. There are, however, additional matters, which need be considered, namely:

- the type of incident
- impartiality of evidential procedures
- police complaints legislation and procedures
- community issues
- officers dealing with their own colleagues
- representation for police officers.

4.1 **Type of incident**

The following are the types of incident from which a police-related road death might occur. Each brings its own particular needs and problems.

- Death of a person in police custody, e.g. a prisoner being conveyed in a police vehicle.
- Death of a police officer in a vehicle.
- Death of any other person being conveyed by police.
- Death resulting to another person following collision with a police vehicle.
- Death resulting to another road user from collision involving a vehicle being followed by police.
- Death of a police officer from the actions of another road user, either deliberate or otherwise.
- Death resulting from other police activity on a road.

4.2 **Impartiality of evidential procedures**

The importance of early examination and preservation of the scene and any vehicles has been discussed elsewhere in this manual. The need for such swift examination will mean that the management of the scene will fall to the local force. In most cases, the death will have occurred in the force area of the officers involved. If the procedures recommended throughout this manual are followed, the integrity of the investigation will be preserved.

The incident may be one where the actions of a police officer are alleged to be criminal and/or at fault.

The issues raised within any police-related road death will be highly emotive for the SIO or other officers involved in the investigation. It does not matter whether the involvement is as an investigator, a witness, a defendant or as a victim of a colleague’s alleged criminal conduct.
This type of enquiry should always be conducted professionally and expediently. Where deaths are directly, or indirectly, related to the actions of the police there will be a need to ensure an audit trail which clearly demonstrates a robust and impartial investigation.

Consideration should be given to bringing in independent investigation team from another area or other force. Such procedures will only be possible if protocols for this have been agreed beforehand. Consideration should also be given to providing an independent element to the investigation by such bodies as the FSS and TRL.

The Police Act 1996, s67, places a duty on a chief officer of police receiving a complaint to take such steps as are necessary to obtain and preserve evidence relating to the offence.

### 4.3 Police Complaints Authority (PCA) and police complaints procedures

Section 70, Police Act 1996 requires that in the case of complaints alleging that the conduct of a police officer has been the cause of a death or serious injury, the complaint must be referred to The Police Complaints Authority (PCA). In practice, it would be proper to refer any police-related road death without the formality of a complaint.

Forces should consider having in place procedures to deal with such matters as the appointment of the SIO, and referral to a senior officer. Such procedures should cover the decision and protocols for appointing officers from another area of the force or from another force.

From the moment any officer believes they are dealing with a death (or potential death) which it can be alleged is directly or indirectly attributable to actions of the police the following steps must be carried out with expedition.

- Ensure the chief officer of the force area in which the collision occurred is notified.
- Request the chief officer considers the immediate notification of the Police Complaints Authority (PCA).
- Request the appointment of a suitable officer to be the SIO.
- Ensure the welfare of the officers (or police support staff) involved is catered for. (see PIMS below)
- Ensure the seizure of all command and control data, recordings of telephone messages and radio communications.
- Ensure the seizure of any relevant operational order and related briefing materials.
- Ensure the Health and Safety Executive are notified.
- Consider suspension of the police driver involved from any police-related driving activity.
The need for such notification may be obvious at the scene or may only become apparent during the investigation. In either case the audit trail must show the decision was made expeditiously and all other investigative steps were taken to ensure the appointed SIO can carry out an effective investigation.

The appointed SIO will need to be acceptable to the PCA, which may determine the enquiry should be made by another police force to the one alleged to be involved in the collision.

In some cases (e.g. cross border operations, escorts or pursuits) the officers involved in the collision may not be members of the force in whose area the collision occurred. This may still not provide the required level of impartiality since allegations could be made of culpability through ineffective operational orders or poor command and control.

4.3.1 Mandatory referral to the PCA

Once a complaint has been recorded, it must be referred to the PCA if it alleges conduct by a police officer falling within either section 70(1)(a)(i) of the Police Act 1996 or Regulation 4(1) of the Police (Complaints)(Mandatory Referrals etc) Regulations 1985.

4.3.2 Mandatory supervision

The conduct specified in section 70(1)(a)(i) is any resulting in death or serious injury. “Serious injury” is defined in section 65 of the Police Act 1996 as “a fracture, damage to an internal organ, impairment of bodily function, a deep cut or laceration”. The PCA are statutorily required to supervise the investigation of all complaints of this kind.

4.3.3 Discretionary supervision

The conduct specified in Regulation 4(1) of the Police (Complaints)(Mandatory Referrals etc) Regulations 1895 is: assault occasioning actual bodily harm; an offence under section 1 of the Prevention of Corruption Act 1906 (that is, bribery); or a serious arrestable offence. The PCA have discretion whether or not to supervise the investigation in such cases.

4.3.4 Discretionary referral to the PCA

It should also be borne in mind that the PCA are empowered under section 72(1)(c) to supervise the investigation of any other complaint not falling within the criteria for mandatory supervision. Under section 71 they may also supervise any non-compliant matter regarding possible misconduct referred to them voluntarily where the public interest makes it desirable to do so.

It may therefore be appropriate to invite the PCA to consider supervising the investigation of any case – whether involving a complaint or not – that is likely to undermine confidence in the police, either locally or nationally, and where independent testimony to the thoroughness of the investigation could help to meet that concern.
4.3.5 Uncertainty as to whether to refer a case

If there is uncertainty over whether a particular complaint should be referred to the PCA, it will generally be appropriate to let the PCA decide the issue. Most forces will be aware of the type of cases that are likely to interest the PCA.

Where there is doubt as to whether a complaint of injury constitutes ‘serious injury’ (but there is no doubt that it would amount to actual bodily harm) the PCA’s view on the question of referral should be sought or the case should simply be referred to them under section 72.

4.3.6 Timing of referrals

Mandatory referrals are required to be submitted to the PCA by the end of the day after the one on which it became clear that the complaint fell within the criteria for referral. There may by cases where it is not immediately apparent that the complaint falls within these criteria. Such a situation would arise if, for instance, a medical report showed that an injury was more serious that has originally been supposed.

There is no time limit for voluntary referrals to the PCA, but the value of the PCA’s independent supervision may depend upon them being involved from a very early stage.

4.3.7 Approval of investigating officer

If the PCA supervise the investigation of a complaint, they may choose to exercise their right to approve the appointment of the investigating officer. The PCA should be provided at the time of referral with the name, rank and force of the officer whom it is proposed to appoint as the investigating officer. Where this information is not immediately available, the PCA should be told that it would follow as soon as possible. In the interest of bringing greater independence to the investigation of complaints, forces are encouraged to consider the appointment of investigating officers from another force.

If the appointment has already been made (e.g. because of the need to begin the investigation urgently) and the PCA are not satisfied with that appointment, they may ask the force to propose the appointment of another officer. The force is obliged to comply with such a request and should not formally make a new appointment until the PCA has approved it. The relevant section from the PCA Manual of Guidance is reproduced at Appendix ‘H’.

4.4 Health and Safety Executive (HSE)

A police-related road death may need to be the subject of a notification to the HSE and, as such, the HSE will declare its interest and level of involvement at an early stage. Although the HSE is likely to focus upon operational procedures, risk assessments and Health and Safety at work it is highly likely these are the same areas the SIO will also be investigating. Thus there will be a parallel investigation, which has significant ramifications for disclosure.
Health and Safety at Work legislation should be considered and matters such as: the hours of duty of the principal officer, both on the day and in the preceding days; the actions of other police officers; vehicle maintenance schedules; internal force directions on the use of vehicles and training of drivers and many other factors may be relevant evidence and should be preserved as such.

4.5 Major Incidents and community issues

Any police-related road death should be treated as a major incident and any existing procedures for dealing with such incidents should be implemented. Officers who deal with such incidents, in whatever capacity, should consider the community issues which may arise either because of:

- the nature of the death
- the location of the death
- the deceased (by reason of age, ethnicity, prominence)
- media interest.

The investigating team may find themselves dealing with bereaved people who are not only distraught with grief but also highly doubtful of the ability of the police to investigate impartially the alleged circumstances of the incident. Indeed the police may find the bereaved will only deal with them through a solicitor, community leader or other intermediary.

Family Liaison

It is important to put family liaison strategy in place and ensure the creation and maintenance of a family liaison policy file. This will show when and how contact was attempted or made, the information shared with the bereaved and relate to any associated decision in the main policy file as to why any information was not shared at any particular time. If necessary the family liaison strategy may extend to a community liaison strategy, particularly where there is a need to encourage witnesses to come forward or to try to redress attitudes caused by misinformation.

4.6 Colleagues as victims, suspects or witnesses

Most police-related road deaths would place officers involved one of three categories:

- victim
- suspect or potential offender
- witness.

Colleagues who deal with the scene may experience some distress and other officers, such as colleagues, control room staff and those dealing with the family or community may also suffer distress. The welfare of all officers affected by the incident should be a consideration for any of those involved in the management of the incident. There will almost certainly be other officers directly involved in
the incident and their status as a witness should not be compromised. At the same time, their welfare and the welfare of all witnesses must be considered.

Those officers whose actions may be alleged to be directly contributable to a road death are not distinctly different from those involved in firearms incidents. Many police forces now operate Post Incident Management (PIM) schemes where a suitably qualified senior officer is appointed at a very early stage to cater for the welfare of the officers involved. This post incident manager has no remit other than that of welfare and will provide a point of liaison for the SIO. This allows the SIO to investigate knowing the welfare of all officers is the prime concern of another, thus relieving some pressure on the SIO.

It is important that the welfare needs of the SIO, who may also be responsible for the welfare of many others, are not overlooked.

If the police officer(s) involved are potential offenders, the senior officer should ensure that the integrity, collection, and preservation of evidence is in accordance with the procedures of this manual.

Whether the principal officer involved is a victim or a potential offender, the very fact of the death occurring may be a death in the workplace.

Any police officer who is identified as victim of a police-related collision should be afforded the same access to voluntary support organisations as any other victim in this context would be. (Refer to Appendix ‘B’)

4.7 Representation of police officers

The police complaints and discipline procedures make provision for the representation of police officers by staff associations. As in any other case, police officers and their staff association representatives have fundamental rights which must always be considered.

4.8 Police witnesses

Police officers who are involved in incidents as third parties will have the status of a witness and/or an injured party. Indeed, it is possible that one police officer may be the deceased and another the potential offender. The SIO should devise an early strategy to deal with the complications that may arise from such situations. Any policy or strategy that is devised should be recorded in the policy file. Appropriate procedures to deal with the integrity of evidence, representation, welfare, conflicts of interest, conflicts of loyalty of colleagues and other factors which may impact upon the investigation should be included in policies and strategies.

In addition to considering referral to the Police Complaints Authority the SIO investigating Police-Related Road Death should consider early discussion with the Health and Safety Executive who may elect to exercise an investigative role.
If the enquiry is a supervised one this may have to take place in conjunction with
direction from the Police Complaints Authority with all relevant case
conferences, directions and decisions being recorded in the policy file.
5. **Investigative Tools**

The purpose of this section is to enable SIOs to pursue additional lines of enquiry if they have reached either of the following stages in the ‘Road Death Investigative Model’:

- ‘What else does the Investigation need to know’
- ‘Identify where any additional information can be found’.

Accordingly, the following information is by no means definitive but will provide opportunities for SIOs to add value to their enquiry where necessary or appropriate.

### 5.1 Automatic Number Plate Recognition Systems (ANPR)

ANPR technology provides the police service with a highly effective tool that is capable if identifying particular vehicles of interest which may be ‘hidden’ amongst the huge volume of traffic using our roads today.

In brief, ANPR uses video/CCTV cameras to monitor traffic flows and the images are fed back to the recognition unit where they are digitised. Software then locates the number plate in each image and reads the registration number. The output from the system is a data stream of registration numbers that can be checked against one or more databases.

ANPR, which has been deployed by coincidence close to a particular incident, may provide the SIO with a list of vehicles (including the offending vehicle or potential witnesses) that passed through the crime scene at the relevant time.

The deployment of ANPR post incident at the crime scene over several days may prove an effective method of identifying individuals who are known to pass the scene at the relevant time each day.

Further advice on system deployments/locations can be obtained from the Secretary of the ACPO ANPR Steering Group.

At present, approximately 20 forces are using ANPR. By April 2002, every force in England and Wales will be provided with a centrally funded twin camera mobile system.

In addition to the Police use of the technology the Driver and Vehicle Licensing Agency (DVLA) is using ANPR to detect Vehicle Excise Duty evasion among moving vehicles on public roads.

Data Protection legislation prevents the DVLA from providing the police with bulk data from ANPR systems as a routine activity. However, the data can be released where the police are investigating a particular incident or group of incidents, and DVLA ANPR data collected at or near to the location of any such incident, and at or around the time of any such incident could help them in their enquiries.
SIOs requiring access to DVLA ANPR data should contact the DVLA local office.

5.2 Closed Circuit Television (CCTV)

Ascertain whether there are any CCTV systems privately or publicly owned, either adjacent to the scene of the collision, or on the route(s) travelled by the parties involved. Officers should bear in mind a camera some distance away might have been ‘zoomed in’ to the area of interest at the time of the collision.

5.3 Traffic enforcement cameras

The foregoing paragraph is also of relevance to speed, traffic light and bus lane cameras, on roads approaching and leaving the scene.

This is particularly important if the investigation involves a ‘hit and run’ collision, whereby the offending vehicle may have been caught leaving the scene.

5.4 Force Fixed Penalty Processing Offices

A wealth of information is available from Force Fixed Penalty Processing Offices. While different forces use different systems, the nationally accredited VP/FPO System (MDIS) will allow the System to be interrogated by the following categories:

- Vehicle Registration Mark
- name of driver/keeper
- date
- type of ticket/offence
- officer who issued the ticket
- make of car
- geographical area including street details and town/city.

5.5 PACE Act 1984

Subject to the written authority of a superintendent or above, Section 4 of the Police and Criminal Evidence Act 1984 permits officers to conduct road checks for the purpose of ascertaining whether a vehicle is carrying:

- a person who has committed an offence, other than a road traffic offence or a vehicle excise offence
- a person who is a witness to such an offence
- a person intending to commit such an offence
- a person who is unlawfully at large.

In cases of urgency, the authorisation may be given by an inspector, who must cause an officer of the rank of superintendent or above to be informed accordingly. Although section 4(1) excludes road traffic offences, section 4(4) states that an officer may authorise a road check under subsection (3) above
for the purpose specified in subsection (1)(a) above, if he has reasonable grounds for believing that the offence is a serious arrestable offence

Section 116 states that offences under Parts I and II of Schedule 5 are always serious. Sections 1 and 3A of the Road Traffic Act 1988 are listed under Part II to Schedule 5 and are therefore serious arrestable offences.

5.6 **Witness Appeal Boards**

The use of Witness Appeal Boards, either at or on the approach to the scene of a collision, may encourage a previously reluctant witness to come forward.

Careful consideration must be given to the message, which should be concise and informative. The manner in which the message is displayed will also require some thought. For example, on lower speed urban roads the entire message may be included in one board while on higher speed roads it may be prudent to spread the overall message across several boards.

In placing Witness Appeal Boards, it is prudent to consider the potential benefit of reciprocating the message on the opposite carriageway. It will also be necessary to decide how long the Appeal Board(s) should be left in situ, for example if the road carries a large number of LGVs travelling to/from the continent it may be appropriate to leave the boards in situ for up to 2 months.

5.7 **Questionnaires**

The use of questionnaires may elicit additional information helpful to the enquiry. Questionnaires may be issued for self-completion and return, or can be completed by the officer in the presence of the interviewee. Either way, questionnaires may be issued to residents living in the locality of a scene, or to motorists and other road users travelling along the stretch of the road at a relevant time after the incident. Before embarking upon this exercise, the SIO should ensure there are sufficient copies to cater for the anticipated numbers of recipients.

5.8 **Collision/Incident/Journey Data Recorders**

Many vehicles, particularly fleet vehicles, are now fitted with Collision Data Recorders (CDRs). Measuring approximately 13.5 x 11.5 x 4.3cms, these can be mounted in any part of the vehicle or may be found bolted to the floor under the front passenger seat of the vehicle. As well as making a significant contribution to Road Safety, fleet managers have found that CDRs have a positive impact upon the direct and indirect cost of their transport operations.

It is important to distinguish the purpose of a CDR from other onboard devices currently in use which are intended primarily as vehicle fleet management tools and which record long term data about the journeys driven. The CDR is concerned only with the 30 seconds before and 15 seconds after the collision and is intended to capture a great deal of information at very high resolution.
The aim of analysing the CDR data is to provide the Collision Investigator with additional and incontrovertible evidence of events immediately prior to, during and after the collision. The advantages of such a device are considerable in that it provides information, which is either of greater accuracy than that obtained by traditional methods of collision reconstruction or which is not otherwise available at all.

The idea behind a CDR is that it should continuously receive data from a number of sources that will effectively flow through an electronic memory so the last 30 seconds are there at any moment. These same data sources are also monitored via an algorithm looking for events, which can be interpreted as a collision. When a collision is detected the information already in the memory is held, the next few seconds are also recorded and held, after which the device stops recording and moves the accumulated data from before and after the collision into a file for retrieval.

The types and quantity of data that might be recorded in an ideal CDR are extensive and some compromises have been made to achieve a practicable device. For example, a vehicle, which is approximated to a rigid surface, has 6 degrees of dynamical freedom, but for cost effectiveness the CDR monitors only 3 of these using longitudinal and lateral accelerometers and a magnetic yaw sensor, all integrated into the recorder. In addition, it receives a speed input from the vehicle’s speedometer system.

The accelerometers are calibrated when the device is manufactured, and can if necessary be re-calibrated after a collision. The speedometer input is calibrated on installation.

As well as these four channels of quantitative data, the CDR has 10 ‘status signal’ channels that record the on/off status of equipment in the vehicle. These can be connected according to the wishes of the user, but there are certain devices, which will almost always be monitored because of their obvious interest to the Collision Investigation:

- brakes
- direction indicators
- lights (high beam, low beam and side)
- ignition
- horn.

In addition, the CDR’s memory will hold the unit’s unique reference number, its installation position, the current date, calibration data and the time (to the nearest second) at which a collision occurred. The data recorded on a CDR must be managed through a group of special pc-based programmes. It is first downloaded from the CDR using a programme enabling the operator to read dates and other circumstantial information about the recordings, but no more.
A full analysis of the data can only be undertaken by the manufacturer to ensure the integrity of the subsequent information reported. This will provide a two-dimensional plot of the motion of the vehicle for the period of the recording. The plot can then be overlaid on a plan of the area.

A large capacitor within the CDR circuit board ensures there is sufficient energy to operate the recorder, should the connection to the main vehicle battery be broken during an impact. Even with the CDR removed from the vehicle, stored data will be retained for a number of years and the internal clock will continue to operate.

Incident Data Recorders (IDR) devices are designed to record precisely the movement of an equipped vehicle immediately before, during and after an incident. From this data, collision investigators can also determine usage of lights and ancillary equipment on the vehicle at the pertinent time.

Journey Data Recorders (JDR) allow access to information on driver behaviour and driving techniques for prolonged periods of time prior to the collision. The frequency of recording rarely offers the collision investigator sufficient information to reconstruct the collision but the data can sometimes profile the preceding driving manner and sometimes it can be referenced to particular highway locations using GPS.

### 5.9 In-car camera systems

If possible, arrange for the route(s) to be videoed by a police camera car to show the views that driver/s and witness/es will have had on approach to the scene of a collision. This would prove invaluable at subsequent court hearings. Where possible, this should be undertaken on the same day and at a similar time to the actual collision.

It should be noted, however, the view from a car will be different to the view of an LGV/PCV driver. If such a vehicle is involved and the SIO wishes to record the view of the driver, it will be necessary to record the route as viewed from a similar vehicle.

### 5.10 Engine management systems

All modern vehicles are now equipped with engine management systems. Where considered necessary, liaison with the vehicle manufacturer will establish what information is recorded there and how it may be retrieved.
5.11 Transport Research Laboratory (TRL)

The Transport Research Laboratory offers a 24-hour telephone advice service in the first instance for police investigations. They also advise on other specialist knowledge bases in other agencies/bodies. They can be contacted on 01344 770892 or fax 01344 770 894. Expertise at TRL can offer information in the following areas.

Collisions

Equipment is available to test road surfaces and construction materials and expert opinion can be provided on their contributory effects. TRL manage a number of unique databases concentrating on collision causation; injury tolerance; vehicle construction; road design, construction and maintenance. Test facilities are available to analyse damaged vehicles, safety helmets and ancillary equipment. This service also extends to collisions resulting from sporting and construction activities.

Expert opinion can be provided on human impairment factors and on adverse weather incidents where sites have been affected by rainfall, flooding, ice, frost, snow and fog.

Human factors

TRL have developed an extensive battery of tests to investigate the driving task and to measure and compare driver performance when impaired by:

- alcohol
- medicinal or recreational drugs
- fatigue
- age
- information overload from in-car technology.

Expert opinion can also be provided on:

- hazard perception
- driver stress
- the likely impacts of work patterns and working practices
- equipment design and usability
- vehicle design and ergonomics
- conditions where human performance may be at its limit
- health & safety in the workplace
- evaluation of training effectiveness
- contributory and precipitating factors.
Highways environment and traffic

Specialist highways and traffic engineering staff can provide expertise on:

- highway authority policies, systems and practices
- road and junction layout design
- traffic signal timings
- collision cluster site treatments
- safety audit techniques
- highways construction techniques
- routine and winter maintenance
- materials testing
- lighting
- surface conditions during adverse weather
- ground and soil conditions
- visibility
- glare

Vehicles

TRL is acclaimed internationally for its vehicle safety test and development work. This expertise can be accessed by investigating officers in respect of:

- crashworthiness
- deployment of, and protection offered by, seatbelts and airbags
- vehicle identification using unique characteristics and specifications
- assessing the fitment and effect of accessories
- tyre imprints
- vehicle sounds
- vehicle conspicuity
- vehicle handling
- HGV rollover including shifting loads
- vehicle damage assessment
- the availability, analysis and interpretation of ‘black box’ data.

Crime

By using some of TRL’s unique databases, motor vehicle characteristics can be identified and injury mechanisms can be determined even for non-vehicle related criminal investigations. TRL can also advise on the availability and use of alternative data sources held by other agencies that can be accessed to narrow down the field of investigation.
Liabilities and risk management

TRL can advise on the appropriate risk and safety management policies, systems and practices that should be adopted by both the public and private sector in their respective fields of operation. This is pertinent in connection with investigations into working practices, particularly those involving the introduction of new technology or novel working practices.

5.12 Databases

Warning

Some information contained on databases is subject to the provisions laid down in the Data Protection Act 1998. Care must be taken at all times when divulging or sharing information contained on these databases.

5.12.1 Police Intelligence Kommercial Enquiry (Pike) Database

The majority of UK Police Forces now have access to the PIKE Database (an intelligence database for large goods vehicles and coaches).

Each time an LGV/coach is stopped the following information is recorded on the database, if available:

- name and address of the company
- operator’s licence details
- driver’s name and address
- vehicle details
- date and time stopped
- offences detected
- details to be forwarded e.g. to other force area
- any intelligence
- person who stopped vehicle.

This information is then transferred between forces, as necessary, to build a data profile of drivers/owners/operators. Prior to data being entered onto the national database it is sent to the owning force for verification. The owning force is the force area in which the operating centre is situated. Once the data has been verified, the owning force sends it back to the national database for inclusion. Verification is necessary to ensure that data protection and Human Rights legislation has been complied with. It is also an opportunity to alert the owning force that one of its operators has come to notice elsewhere.

5.12.2 Police National Computer (PNC)

The PNC holds extensive data on vehicles such as:

- vehicle registration number
• make, model and colour
• engine number
• chassis number
• last registered owner
• details of any unconfirmed new keepers
• vehicle excise duty status.

The value of information on the PNC is not widely recognised. Traditionally regarded as a record keeping service, the system has been under constant development to support Operational Policing and now has many uses in Road Death Investigations and intelligence gathering.

In addition to responding to conventional enquires, the millions of vehicles on the system can be searched in seconds with a partial description and/or other factors using the Vehicle On Line Descriptive Searching (VODS) facility. The more information available on a vehicle, the more likely that the required vehicle will be identified.

Any single or combination of the following factors can be searched for:

• part VRM – less than required for a full or partial enquiry (e.g. only one or two characters identified)
• partial engine or VIN details
• engine capacity
• make/model
• colour(s)
• year of registration
• body type
• post code of registered keeper (range from area (LE), district (LE08) or street/part street (LE08 5WW)
• the presence of any police reports (with or without it is up to different force owners)
• the presence of DVLA markers.

The VODS system is being updated to allow trained officers to search by partial details of registered keepers and by the text within police reports.

The PNC transaction log can be examined not only for when checks have been carried out by local officers but also to see if a specific vehicle or person has been checked anywhere in the country. Development continues on the driver’s application and will soon allow searches of the 48 million driving licences held by DVLA.

Similar information is available in respect of Northern Ireland registered vehicles by contacting your force’s PNC Liaison Officer.
5.12.3 Driver and Vehicle Licensing Agency (DVLA) – Swansea

There are approximately 37.5 million vehicles registered and 48 million drivers licensed with the Driver and Vehicle Licensing Agency (DVLA).

The Agency regards the police as one of its most important customers and their Police Liaison and Support Group plays an important role in providing the best possible service to them.

The Group consists of the Police Liaison Unit and the Police Enquiry Unit supported by Liaison Officers based in each police force throughout the United Kingdom.

5.12.4 The Police Liaison Unit

The Unit is responsible for maintaining a general enquiry and information point for DVLA staff and police forces within the UK on matters involving both the Driver and Vehicle Systems. Enquires relate to:

- policy and procedural issues
- special police operations
- suspect and forged transactions on stolen and scrapped vehicles/ registration documents and driving licences
- preparation of witness statements for the Crown Prosecution Service
- access to the Interpol World Wide Stolen Vehicle Database
- access to the European Car Information System (EUCARIS)
- Driver Improvement Scheme.

The DVLA operate a 24-hour service for police in cases of serious crime, serious collisions or serious incidents. Requests for this service can only be authorised by the nominated force DVLA Liaison Officer or an officer not below the rank of superintendent.

5.12.5 Traffic Commissioners

An Operator’s Licence is required to carry goods or passengers connected with any trade or business if a motor vehicle is used on a road.

The licence will be issued by the Traffic Area Office covering the applicant’s principle ‘Operating Centre’ i.e. the location where their vehicles are kept when not in use.

The licence document will include:

- details of the licence holder and the licence number
- details of the type of licence issued and the total number of motor vehicles and trailers authorised for use under it
- details of the specified Operating Centres
- the names of Transport Managers (as appropriate)
• conditions and undertakings
• a list of the registration marks of the motor vehicles specified.

5.12.6 Vehicle Inspectorate (VI)

The Vehicle Inspectorate holds information in 5 separate databases as follows:

**Roadworthiness Database** – details of all roadworthiness prohibitions issued to vehicles either at the roadside or at an operator’s premises. The information will include date of issue, severity of prohibition, issuing officer and if the prohibition has been cleared.

**Testing Database** – this will include all of the technical details of the vehicle including VIN number, tyre sizes, vehicle type and the vehicle test history which will show the date and place of tests and who presented the vehicle for the last test.

**Vehicle Safety Branch Database** – where vehicles are inspected as the result of a road traffic collision a detailed report of the examination will be completed by the examiner and the information contained therein recorded on this database.

**Prosecution and Legal Services Database** – all prosecutions taken by the Vehicle Inspectorate against both individuals and companies are recorded here, including offences, court and the outcome of the case.

**VI Intelligence Database** – this database contains details of intelligence gained by the VI’s Intelligence Unit about goods and PSV operators and drivers from a number of sources.

The VI will supply information on companies approved to ‘MOT’ vehicles including copies of Test Certificates.

The VI will also provide expertise in the interpretation of tachograph charts and hours of work. They will also provide expert examiners to test LGVs and PCVs. In addition the VI will be able to provide records of vehicle testing, failures and non-attendance for tests.

5.12.7 HM Customs & Excise

This organisation has a comprehensive database particularly with reference to vehicle movements in and out of the UK.

5.12.8 HPI – EXPERIAN

EXPERIAN is a leading information company, which has developed an advanced and comprehensive database for the UK Motor Trade. Their headquarters in the UK is at Talbot House, Talbot Street, Nottingham NG1 5HF.

Their ‘Gold Card Data Check’ can be accessed within seconds of an enquiry by personal computer, telephone or fax, providing access to the following information:
• Vehicle Registration Mark (VRM)
• VIN versus VRM check
• date of first registration
• make and model
• VMC mileage check orderline
• on-screen mileage
• engine number and capacity
• transmission type
• stolen vehicle data
• plate change data
• body type
• total loss/write off insurance data
• scrapped indicator
• high risk vehicle (rental/demonstrator data)
• all finance secured against a vehicle, including type of agreement and term
• exported/imported indicator
• valuation from Glass’s Guide
• number of previous keepers and date of last change
• colour changes and date of last change
• year of manufacture
• manufacturers’ branded certificates (approved dealers only).

All information is compiled around the Vehicle Identification Number (VIN) although access can be made either using the VIN or Vehicle Registration Mark (VRM). Using the VIN, which is a more secure form of identification than the VRM alone, ensures speedy access to a full history of any vehicle.

5.12.9 IT/PC Direct Connection

As part of their contract with the Home Office Experian have agreed that all police forces can have free on-line access to their system.

The database is updated daily, seven days a week, using the latest information available from:

• Driver & Vehicle Licensing Agency (DVLA)
• the Police National Computer
• Society of Motor Manufacturers and Traders (SMMT)
• over 600 finance companies
• Association of British Insurers
• Lloyds syndicates
• Glass’s Information Services
• fleet and daily rental companies
• Vehicle Mileage Check Limited (VMC)
• British Vehicle and Rental Leasing Association.

5.12.10 Manufacturers’ parts databases

Where a vehicle has been damaged in a fail-to-stop collision the SIO may be aware of those parts that will need to be replaced during repairs. If the make and model of the vehicle can be identified then the manufacturer and their agents should be asked to put a stop on any order for the combination of parts. The resulting orders can then be checked on a trace, interview and elimination basis. The Forensic Science Laboratory has access to type approval records that might help to identify the source of components left at the scene.

5.13 Other computer databases

SIOs should be alert to the possibility that other databases exist which may initially not be apparent but contain information which could significantly assist an enquiry. Such databases may include details of the location and movement of persons/vehicles at a certain time. While a definitive list is impossible, some examples are:

• staff clocking on/off work
• vehicles moving in/out of car-parks
• vehicles utilising pre-payment toll tags moving through road tunnels or along particular roads.

5.14 House-to-house enquiries

House-to-house enquiries will always be an important tactical consideration for the SIO whilst at the same time having the potential to be resource intensive, costly and yielding low investigative benefit. Alternatively, by applying an intelligent approach to key sites identified by reason of location, significant sightings and evidential discovery, house-to-house enquiries have the potential to be an effective tactical option providing valuable information and evidence. If managed prudently, house-to-house enquiries can be cost effective.

In 1993, the ACPO Crime Committee’s working group on Major Crime Investigation published a good practice paper about house-to-house enquiries. The main points arising from this paper can be summarised as follows.

• The SIO must clearly define the house to house area.
• The SIO must decide whether the standard MIRSAP house-to-house questionnaire is adequate or whether it needs to be revised to meet the needs of the investigation.
• The officer in charge of the house-to-house must be adequately briefed by the SIO.
• Once a house-to-house area has been defined, a reconnaissance of the area should be conducted to establish exact details of properties.
• Regular briefings/debriefings of house-to-house officers should be held.
• The house-to-house controller must indicate HOLMES indexing priorities.
6. The Media

There are many occasions when the help and assistance requested and provided by the media in its various forms have proved to be instrumental in the satisfactory conclusion of the police investigation.

Officers should never lose sight of the many benefits that may be gained by the intervention of the media at whatever time or level is deemed appropriate for the specific needs of an individual case. The process will be assisted by a close working relationship being formed between the SIO, the FLO, the victim’s family and the force press office.

Whilst different techniques may be employed, the three basic rules remain the same.

- Know what you want to say.
- Know to whom you are speaking.
- Withhold only what we must.

The interest of the media in a road death or serious collision may be influenced by various factors:

- the number of deaths involved
- the severity of the injuries to others
- the number of vehicles or the type of vehicles
- the persons involved, because of age, prominence or other reason
- other news stories available to the media.

The police use of the media may be divided into four separate areas:

- attention to the facts surrounding the collision or its investigation
- traffic information broadcasts, which will assist both the motorist and the police by avoiding congestion around the site
- specific appeals for information and witnesses
- marketing our professionalism.

The SIO should be aware of possible situations that may arise as the result of press publicity and should develop a strategy to deal with them. If, for example, a press report names a party to the collision other than the deceased, that person and their family may suffer as a result even if they are innocent of any offence. There is a balance to be achieved so that a fair and thorough investigation is conducted and is subject to public view whilst the wishes and rights of those involved are protected.

As most people have little or no contact with the police in their day-to-day lives, the impressions they gain of us are from what they hear on the radio, see on the television, or read in newspapers.
The news media have become a powerful influence in our society; television in particular attracts vast audiences. More than 75 per cent of the population cite television and radio as their prime sources of news.

You may be an expert in your field, but if you cannot communicate effectively or control the interview then you will fail to promote your cause and may even damage your force’s reputation.

No one can pretend dealing with the media is always easy, particularly at an early stage of any incident. We should however remember we cannot ask the media for help one day and refuse to co-operate the next.

Talking to the media is not the sole responsibility of the Press Liaison Officer, or member of the Corporate Communications Department. Every one is an ambassador for their force and has the ability to enhance or damage its reputation.

Officers must be mindful and comply with legislation such as the Data Protection, Contempt of Courts Act, and the European Convention of Human Rights.

6.1 **Media strategy**

Media strategy should be considered at an early stage to establish the level of involvement sought. It is advisable that the SIO agrees the strategy with the force press department.

The early response to the media should be in the form of a holding statement. Details of victims are rarely given as part of a holding statement. This approach is adopted both for compassionate reasons (to allow friends and relatives to be notified) and for practical purposes (the need to establish and confirm the identity of the deceased). When the time has come that details of the deceased can be released, this should only occur on the authority of the SIO who may wish to consult with others such as the Coroner’s Officer.

6.2 **Media attending the scene**

When the media attend the scene of a road death, access to the scene should be carefully controlled both to protect the scene and for health and safety reasons since, as previously stated, the police are responsible for the health and safety of all persons at the scene. It is for the SIO to decide when access to the scene should be allowed. Such access should be under direct police supervision.

The identity of any person arrested or reported for an offence but not yet charged or summonsed should not be released to the media. If a driver is arrested on suspicion of causing death by dangerous driving but is subsequently bailed to reappear at a police station, their identity should not be released to the press.
6.3 **Witness appeals**

The SIO should consider an early appeal for witnesses. The timing of such an appeal can be important. Consideration of the aims of any appeal and the persons at whom it is targeted will guide the timing. However, the earlier the appeal is made the more successful it is likely to be.

When an appeal for witnesses is made and a telephone number is to be published, resources appropriate to deal with the resulting response must be employed.

The media involvement in any fail-to-stop incident may be significant and an appropriate strategy to manage the media involvement will have a strong bearing on the outcome.

One tactic to be considered is a subsequent visit to the scene at a time that may stimulate new lines of inquiry. This may be within the first twenty-four hours, at a subsequent anniversary or at another time when it is felt that some advantage may be gained.

6.4 **Impact on the family**

Consideration should be given to staging any reconstruction for the media prior to the relevant time of the appeal.

The potential impact upon the family of the victim of any press releases should be considered and appropriate steps taken.

Bereaved families must be warned at an appropriate time by the FLO that details of the victim will come within the public domain at the opening of the Coroner’s Inquest.

Any information given to the press and media should be based on fact. No explanations as to the cause of the collision should be given and phrases that indicate blame on the part of any of the parties involved should be avoided at all times.

Although police will always work hard to protect the families of victims, they must be in no doubt that we do not, and cannot, control the press.

6.4.1 **ACPO Media Guidelines**

The ACPO Media Advisory Group have written guidelines for individuals under police investigation and concerning the naming of victims or witnesses of crime, road collisions and other incidents. These are reproduced in Appendix ‘C’.
7. **HM Coroner**

HM Coroner is a judicial officer who carries out an independent enquiry under the Coroners Act 1988. The Coroner’s court is part of the overall court structure of the judicial system with powers to summon witnesses and take sworn evidence.

HM Coroner has absolute authority over issues relating to a deceased person in their jurisdiction. HM Coroner has a duty to hold an inquest in all cases where there is reasonable cause to suspect:

- a person has died a violent or unnatural death, or
- the death was sudden and the cause is unknown, or
- the deceased has died (from any cause) whilst in lawful custody or detention
- the death is suspected to be due to industrial disease.

The role of the coroner and the purpose of the inquest are to determine:

- the identity of the deceased
- when and where death occurred
- the cause of death
- the particulars required to register death.

HM Coroner may not comment upon any other matter. An inquest is not a trial but a limited enquiry into the facts surrounding a death. It is not the role of a coroner to apportion blame, nor may a coroner comment upon the criminal liability of any named person. HM Coroner’s Court can reach conclusions of accidental death, death by misadventure, unlawful or lawful killing, natural causes, suicide or an open verdict.

The SIO should keep the coroner apprised of the progress of any investigation on a regular basis.

### 7.1 Attendance at Collision by HM Coroner

Some coroners may wish to attend high profile fatal collision scenes. It is considered prudent for local discussions to take place to establish in what circumstances an individual coroner would wish to attend.

### 7.2 Procedure at Crown Court Trials

HM Coroner will normally open an inquest as soon as is practicable after a fatality occurs. The opening of the inquest will be confined to establishing the identity of the deceased and hearing the result of the post mortem examination.

If the person charged with the offence is convicted, the coroner would not normally need to resume the inquest. In such cases, Crown Court proceedings take the place of the inquest.
It should be borne in mind however that HM Coroner can continue the inquest if they consider it expedient to do so. For example, in exceptional cases of Section 1 offences being reduced to Section 3 offences HM Coroner may consider that public testing of the evidence is appropriate. Any conclusion cannot differ from that reached at the Crown Court. If a person is subsequently acquitted at the Crown Court the coroner may assume a full inquest hearing.

7.3 Format of Inquests

In the majority of cases the format of evidence presentation is as follows:

- evidence of identification of the deceased
- pathology evidence of cause of death
- evidence which lead to the pathology report – witness evidence as to how the injuries were sustained.

7.4 Notification of Proceedings to Coroners

HM Coroner will be informed of all sudden deaths as soon as is practicable and updated when necessary as to the progress of any investigation.

A body will not be moved from the coroner’s district where it was originally found without the consent of HM Coroner. Where there is no cause to suspect foul play bodies at the scene of collisions should be removed to a mortuary.

7.5 Deaths of Foreign Nationals

In such circumstances HM Coroner will liaise with the Consulate of the person concerned. The majority of incidents are straightforward and no problems are experienced. In cases where diplomatic immunity or the Visiting Forces Act 1952 are highlighted then the deceased is returned to the originating State. However, most European Union Countries and the USA are prepared to waive these immunities in the majority of cases.
8. Post Mortems and Pathology

8.1 Role of the pathologist

A pathologist is appointed by HM Coroner to perform a post mortem examination. A Senior Investigating Officer should also ensure that the coroner is aware and in agreement and that the pathologist is aware of the coroner’s authority. The purpose of the post mortem is to establish the medical cause of death, the extent of the injuries, the presence of any natural disease and to make a factual record of the findings.

The SIO has responsibility to ensure that the coroner is notified as soon as practicable following a road death, and that an investigation is underway.

Where there is a requirement to move the deceased from one coroner’s jurisdiction to another, the respective coroners must be appraised and their authority sought before any movement occurs. In many forces, Coroner’s Officers have an important role to play in this regard.

8.1.1 Organ transplants

It is not uncommon in road death investigations for the question of organ transplants to arise, given the wishes of the victim/immediate family. In such cases, the SIO should refer to the detailed guidance published by ACPO Crime Committee in August 1994. The main points of the guidance are summarised as follows:

- in cases of unlawful killing, removal of organs can ONLY be with the consent of HM Coroner in whose jurisdiction death occurred
- there will be a presumption in favour of transplant providing HM Coroner is satisfied the organ donation will not prejudice the investigation of an unlawful killing - the interests of justice are paramount
- HM Coroner will invariably consult the Home Office pathologist assigned to the case, to establish that his/her examination will not be impaired by the removal of the organs
- the relevance of the removal of an organ should be considered in the context of a second post mortem examination
- if a person is charged, no organ transplant should take place without obtaining the views of the defendant or legal representative
- the SIO should take a leading role in gathering opinions and assessing impact upon investigation, (the SIO must move rapidly in such circumstances)
- the only person who can make the decision regarding organ removal is HM Coroner.
8.1.2 General hospital post mortem examination

Historically, a pathologist from a local area health authority usually conducts a post mortem arising from a road death incident.

During a post mortem examination carried out by a hospital pathologist, it is a matter of discretion for the SIO as to whether they or another officer involved in the investigation attends the examination. If a decision is made not to attend the post mortem examination, then the post mortem report is only likely to indicate a cause of death and a description of the injuries.

In some cases all that may be required from a post mortem examination will be a cause of death, together with a description of the more evident injuries.

8.1.3 Home Office forensic pathologist

As a matter of course, during homicide or manslaughter investigations, a Home Office forensic pathologist will be used. The Coroner will make the ultimate decision, but guidelines are that in all cases of suspicious death or unlawful killing, a Home Office forensic pathologist authorised by the Coroner, must be used. Certain categories of road death incident certainly fill this criterion.

The SIO must decide at an early stage the type of pathologist that will be required, and make representation to the Coroner. In arriving at the decision, consideration should be given to the nature and complexity of incident, and whether criminal proceedings may ensue.

Where the cause of death is a necessary constituent of the offence (e.g. causing death by dangerous driving) consideration should be given to requesting the use of a Home Office forensic pathologist who will provide the highest level of investigative expertise and expert status. This may be particularly helpful if interpretation of injuries to the deceased is required, when such a pathologist can express an opinion concerning what may have happened during the collision.

When a Home Office forensic pathologist conducts the post mortem examination, the attendance of the SIO or designate is a prerequisite. The SIO may wish to attend at the start of the post mortem and then again at the end to be briefed by the pathologist.

8.1.4 Attendance of pathologist at scene

It is not always necessary for the pathologist to attend any of the significant crime scenes. Occasions will frequently arise when attendance will be of benefit both to an SIO, in relation to scene interpretation and removal of the deceased, and to the pathologist in understanding and interpreting the injuries. The majority of pathologists have considerable experience of suspicious deaths and, if in doubt, request their attendance at the scene.

If there is any doubt, it is recommended that an SIO discusses with a pathologist the need to attend.
Where possible, the deceased should be examined at the scene with the clothing in place to relate to wounds, injuries and other relevant marks. If the pathologist is unable to attend, or is delayed and it is agreed the removal of the deceased is essential, for example due to locality or adverse weather, the SIO should ascertain from the pathologist what action might be taken prior to removal.

When attending the crime scene a pathologist may attempt to estimate the time of death by taking body temperatures and assessing the degree of rigor mortis. Occasions will no doubt arise when the pathologist will not be able to attend the scene quickly, therefore a SOCO must record the ambient air temperature. The pathologist should assess the scene and carry out preliminary examination, whilst causing the least disturbance to the deceased and clothing.

8.1.5 Defence and second post mortems

Whenever a defence post mortem is requested, details of the defence pathologist should be given to the coroner without delay so that the post mortem and subsequent release of the deceased can be considered.

Defence solicitors will need to establish, for example, the nature of the wounds and cause of death. They will also need to examine the post mortem report, photographs and any other relevant items. Investigators should ensure that this documentation is available subject to the coroner’s prior approval. The SIO should ensure that the original pathologist is aware that a defence post mortem is being performed. Attendance will be discussed between the SIO and pathologist but both should consider attending.

8.1.6 Retention and release of the deceased

A Memorandum of Good Practice has been prepared following inter-agency discussions between the Coroner’s Society, the Association of Chief Police Officers, the Law Society and the Home Office. It is contained within Home Office Circular No 30/1999 and is reproduced at Appendix ‘E’.

Early release of the deceased and keeping the family aware of developments should be a priority for the SIO in helping them to cope with their grief. It must be recognised that this grief is compounded due to religious beliefs in certain communities (e.g. Muslim and Jewish) if there is any delay in burial after death. Likewise there is likely to be a natural resistance from some communities, again based on religious beliefs, (in particular the Muslim community) in relation to the performing of a post mortem examination. These types of issues demand a sensitive response from the SIO who should draw these matters to the attention of the coroner. Further information in respect of this is available from the Commission for Racial Equality or local Race Equality Council (REC).

In considering the early release, an SIO must be aware of:

- identification aspects e.g. whether the identification of the victim is in dispute
- the evidential value of retaining the deceased
• the needs of the investigation
• the need for a defence or second post mortem when the identity of the offender is unknown.

The coroner following discussion with the SIO, should decide the religious and cultural needs of the family.
APPENDICES

Appendix ‘A’  ACPO Crime Committee revised guidelines for the use of policy files

Introduction

The important role played by the policy file in any major crime investigation is widely recognised throughout the Police Service. The policy file should accurately reflect the important strategic and tactical decisions made by senior investigating officers (SIOs) as they relate to the investigation.

Given the importance of this document, it is hardly surprising that over the years it has increasingly become the subject of the closest scrutiny by courts, inquests and reviews. If policy files are skilfully prepared by SIOs they should serve as a critical record of the management of any major crime investigation, which should include the rationale associated with each decision made.

ACPO Crime Committee last issued guidelines dealing with this subject in 1990. In the light of the most recent ACPO Crime Committee Review of Major Crime, Chief Officers are invited to consider the advice contained within these guidelines.

Review Findings

Against this background it is disappointing to report the Review identified considerable variation in working practices as they related to policy files. Some forces were found to strictly adhere to previous recommendations, whilst other forces appear to have either not adopted or to have departed from those recommendations. The Review concluded that whilst guidelines relating to policy files would benefit from revision, in general terms the previous recommendations still remained sound.

Format

Arguably the professionalism of any major crime investigation can be measured against the quality of the police file. Underpinning this principle should be the integrity of the document itself. The policy file should therefore be a bound book, A4 in size, with numbered pages. Chief Officers are strongly advised to ensure the binding of the document will sustain challenges to integrity. Loose-leaf files and methods of binding, which can be easily interfered with, should be avoided. It is considered that a glued back binding with the spine also stapled and bound with tape would conform to an acceptable standard.

The front cover of the policy file should clearly indicate the title, identify the incident, name(s) of the victim(s), offence, the identity of the SIO and deputy and the date the inquiry commenced and concluded. It should also be acknowledged that in many instances the SIO will complete more than one policy book, therefore the number of books used for the incidents should also be included.
Each page of the policy file should have a detachable carbon copy. This enables the copy to be detached and circulated for administrative purposes, for example, recording on the Holmes system. Every policy decision should also be signed and dated by the officer making the decision, although there should be provision to indicate that the actual policy entry was made by someone else, on behalf of the SIO.

In the past, when printing policy files, many forces have adopted the practice of incorporating in the design fly sheets at the front of the policy file which contain details of national agreed headings which will assist the SIO to construct the policy file. These guidelines have been revised and can be found at Appendix C.

When the Holmes system is used, force policy should direct SIOs whether or not entries from the policy file are recorded on the system. Policy should allow the SIO discretion as to whether to place sensitive policy decisions on the system. The practice of entering policy decisions directly onto the Holmes system is discouraged. The recommended practice is for the SIO to keep a written policy file from which Holmes records can be created.

The Review established that the majority of forces favoured the practice of keeping all policy decisions in one or a consecutive series of books. A smaller number of forces favoured separating sensitive issues and non-investigative issues into separate policy books. Providing the format and contents conform to the national guidelines set out in this advice, ACPO Crime Committee are content to endorse either approach.

**Policy File Maintenance**

A policy file should be maintained on all inquiries where a major incident room is set up. In addition, Chief Officers are strongly urged to endorse within force policies the practice of keeping policy files in relation to other serious crime investigations, eg in cases of arson, appropriate fraud cases and complaints/discipline inquiries. As a minimum standard, it is suggested a policy file be maintained in all enquiries where an offence of murder or other serious crime such as kidnap or rape has been committed.

The content of the policy file is a matter that will ultimately be at the discretion of the SIO, set against national guidelines. It is of vital importance that the SIO records systematically all relevant policy decisions. The recording of why various lines of enquiry were pursued or, equally, why they were not pursued, is critical. In addition, the detailed recording of those decisions and the reasons for making them is vital. The enlightened SIO will use the policy file mindful that it is a definitive record upon which he or she will ultimately rely when asked to account for policy decisions.

It is difficult to be prescriptive when providing policy guidelines. It is acknowledged that each investigation will identify issues which should be properly recorded and which fall outside those guidelines. The aide memoir previously referred to certainly serves as a useful guide to the SIO. In the main, policy files should be used to record strategic and important tactical decisions. It is not an action book. Individual actions are less likely to be controversial and should be left to the administration within the MIR.
The construction of a good policy file is a skill, which SIOs should be encouraged to acquire. In this regard experienced SIOs can be used effectively to coach more junior investigators in the preparation of policy files. Detailed guidance is provided to investigators in the ACPO Manual of Murder Investigation, which encourages a strategic approach to preparing policy files. This approach is strongly recommended for adoption within force policies.

Investigating officers other than senior investigating officers should be encouraged to complete policy files in other cases such as robbery or rape to foster their use in support of accountable investigations.

As a general rule, all members of the inquiry team should be made aware of the policy decisions. This can usefully be achieved through regularly updating staff at briefings/debriefings and displaying updated copies of policy decisions in prominent positions within the Major Incident Room. It is acknowledged that there will be occasions when the SIO withholds information from the investigation team on the basis of sensitive issues and in the interests of operational security.

At the conclusion of the inquiry, the policy file should be retained and stored with the case papers.
Investigation Plan

Investigation Set Up

1. Appointment of Senior Investigating Officer
2. Appointment of Deputy Senior Investigating Officer
3. Summary of incident
4. Use of manual of HOLMES system
5. Location of Incident Room(s) and/or satellites
6. Identification and definition of scene(s)
7. Initial decisions at scene
8. Management structure
9. Identify key posts, e.g. Disclosure Officer, MIR positions
10. Areas to be preserved/searched/fingerprinted/photographed
11. Appointment of analyst/researchers

Enquiry Management

1. Statements - when required/verification
2. Personal description forms (PDF) - age range/sex/IC codes
3. House-to-house perimeters - area/street names/numbers
4. House-to-house questionnaires - parameters
5. Alternative house-to-house strategy e.g. leaflet drop
6. Elimination/implication factors e.g. blood/fingerprints/footprints/DNA
7. Alibis - verification
8. Press conferences, frequency/by whom/delegated authority
9. Information which can be released or withheld from Press
10. Use of victim support schemes
11. Liaison with other agencies
12. Deployment of pods/caravans
13. Employment of experts e.g. offender profile
14. Sequence of events indexes to be mentioned
15. Prioritisation of enquires
16. Criteria for NIB searches (MO suspects)
17. Indexes - how many to be maintained/documents - extent of indexing
18. Liaison with CPS/Procurator Fiscal/appointment of legal advisers
19. Identifying relevant times
20. Officers Reports - parameters
21. Parameters for TI/TIE/suspect enquires
22. Crime Scene Assessment
23. Review considerations
24. Liaison with NCF
25. Closing-down policy

**Lines Of Enquiry**

1. Major lines of enquiry indicating those with high priority and resource implication
2. Variations or discontinued lines of enquiry, with reasons
3. Profile of victims/suspects/associates - lines of enquiry
4. Identification and prioritisation of MO suspects
5. Research CC-VSCAS(NCF) for linked offences
6. Research for precursor, local linked offences
7. Artists’ impressions/E-fits/video-fit
8. Media appeals/press releases
9. Crimewatch/Crimestoppers
10. National circulations
11. Nomination of suspects
12. Arrest strategy
13. Search strategy
14. Interview strategy
15. Identification strategy
16. Family liaison strategy
17. Forensic strategy
18. Communications strategy
19. Response to review recommendations

**Finance and Administration**

1. Funding applications - budget allocation - budget revision - budget constraints
2. Payment of overtime - hours of duty
3. Use of police vehicles, mileage allowance, rented vehicles
4. Briefings/debriefings, where, when, by whom
5. Management meetings, where and when
6. Additional equipment
7. Office/enquiry teams
8. Welfare issues for officers
9. Identification of personnel allocated to key positions in incident room/action teams/house to house teams
10. Increase/reduction of staff
11. Typing services - documents to be typed
Sensitive Issues

1. Informant issues - tasking/management/participating status/rewards
2. Technical facilities - applications/installations/monitoring/equipment abstraction
3. Handling sensitive products e.g. tapes, transcription
4. Use of undercover officers
5. IOCA applications
6. Witness protection
7. PII issues eg revelation of investigative techniques

Policy Issues for Linked Investigator (Additional)

1. Appointment of officer in overall command
2. Appointment of deputy officer in overall command
3. Terms of reference
4. Location, staffing, central research unit - appointment of management team
6. Appointment of advisory team
7. Appointment of Byford scientist
8. Mutual aid/liaison from other forces
9. Appointment of Data Protection officer
10. Management structure
11. Delegation of authority
Appendix ‘B’ Examples of voluntary organisations

Professionals who can help

Many people find it helps to talk to someone who specialises in looking after bereaved people. You can arrange to talk to a professional by visiting your GP.

Because a death on the road is so unexpected and violent, people bereaved in this way are often traumatised as well as grief-stricken. This means they suffer symptoms described in this book more severely than people bereaved in some other ways. This is common and nothing to be ashamed of.

Some professional carers – who may be counsellors, psychologists or psychiatrists – have a particular specialism in helping people who are traumatised. They specialise in talking with traumatised people about their experiences and reactions and ways to cope and feel stronger.

GPs have links with carers who may or may not have a specialism in caring for traumatised people. The Trauma After-Care Trust (TACT) holds lists of carers with this specialism. To find out if there is a specialist in your area, you or your GP, can contact TACT on 01242 890306 or write to Buttfields, The Farthings, Withington, Glos, GL54 4DF. Care can be free if your GP refers you.

It is reasonable to ask the qualifications and experience of a carer who offers help. If you are unhappy with the help you get, you should say so and you may be able to see somebody else.

Cruse Bereavement Care

Cruse is a national charity offering free support to anyone who has been bereaved.

Cruse volunteers, who live locally and are trained, can visit you in your home or talk to you over the phone (the choice is yours). Help is available whenever it is needed. For as long as necessary, within reason.

To find out the name and number of your nearest Cruse branch, look in your phonebook. For further information on the support offered by Cruse volunteers, contact Cruse Bereavement Care on 020 8940 4818 or write to Cruse House, 126 Sheen Road, Richmond, Surrey, TW9 1UR.

Professional carers and Cruse volunteers are sometimes busy so a short delay may be experienced before you can talk to one. In addition to TACT, there are organisations which provide listings of professional carers, such as the British Association of Counselling on 01788 550899.

If you need someone to talk to straight away you can call The Samaritans on 0345 909090. The Samaritans is a helpline which is open 24 hours a day for anyone in need. It is manned by trained volunteers who will listen sympathetically.

There are many other organisations – many locally based – which offer support to people suffering bereavement. Depending on the organisation, these may be manned by trained
specialist, volunteers, or people who have been bereaved. Some specialise in caring for people who have suffered the loss of a particular person, such as a child, a sibling, or parent.

Listed below are a number of self help groups. This list should not be regarded as definitive.

**Belt Up School Kids** (bus/coaches/minibus crashes)  
18 Windsor Road, Newport, Gwent NP19 8NS  
Telephone: 01633 274944

**BRAKE**  
Its care division, Brakecare, had produced a book ‘Advice for bereaved families and friends following a death on the road’, which is funded by the Home Office which is available to all police forces free of charge to be given to bereaved families. It provides information for all those affected by death and injury on the road and is endorsed by a Home Office Minister.

BRAKE  
P O Box 548  
Huddersfield  
HD1 2XZ  
Telephone: 01484 559909

**Campaign Against Drinking and Driving**  
39 Heaton Road, Newcastle NE6 1SB  
Telephone: 0192 265 7147

**The Child Death Helpline** is run by Great Ormond Street Hospital, London and Alder Hey Hospital, Liverpool. Freephone: **0800 282 986** (7pm – 10pm all evenings and 10am – 1pm Monday, Wednesday and Friday).

The **Compassionate Friends** is run by parents who have lost a child. It can be contact at 53 North Street, Bristol, BS3 1EN. Telephone: 0117 953 9639.

**Learn and Live** (Young drivers and passengers killed where drinking or illegal driving are not a factor)  
P O Box 7, Kingswinford, West Midlands DY6 9QZ  
Telephone: 01384 292571  
Email: learnanliv@aol.com  
Website: [http://members.aol.com/learnanliv](http://members.aol.com/learnanliv)

**The National Association of Bereavement Services**  
020 7247 1080  
2nd Floor, Pinchin & Johnson Warehouse  
No 4 Pinchin Street, London E1 1ZA
RoadPeace

RoadPeace is a national charity for road traffic victims and provides a helpline for the bereaved and injured offering support and advice. In addition, RoadPeace offers help with individual cases, including escorts to court and meetings and assistance with letter writing.

RoadPeace
P O Box 2579, London NW10 3PW
Telephone: 020 8964 1021

Victim Support

Victim Support is funded by the Home Office to provide care for victims of crime. It has trained volunteers, based locally, who can visit you in your home. Some have experience and training in looking after people who have been bereaved on the road, but others do not. Victim Support can also provide information and support during a criminal court trial.

Trauma Aftercare Trust
Telephone: 01903 820956
Email: paulfaircloth@trauma0.demon.co.uk

Victim Support
0845 3030 900
P O Box 1143, London SW9 6ZH
Appendix ‘C’  ACPO Media Guidelines

Individuals Under Police Investigation

1. Introduction

1.1 The Media Advisory Group recommends that generally people under investigation should not be named but they can and will, with certain exceptions, be identified once they have been charged. This approach balances the principle of open justice with the rights of the individual. Practical difficulties arise where the media have the name of an individual, or a company, and seek confirmation that they are the subject of police investigation. This note addresses a number of areas where clear policy guidance was previously lacking.

2. Arrests

2.1 People who are under arrest must not be named. General details - a 27-year-old Brighton man, for example - may be given, provided they do not identify the suspect. If a suspect is subsequently (a) released without charge; or (b) bailed to reappear at a police station; or (c) cautioned, this fact can be released to the media, but the person should remain unidentified.

2.2 When someone has been charged and kept in custody for court, their name, age, and occupation along with details of the charge and forthcoming court appearance may normally be given. Their address may also be given, unless there are legal or practical implications in providing it.

2.3 When someone is charged and bailed to court at a later date, the same details may be made available as above. However, additional care is required when there is a possibility that a case may be discontinued before the court appearance. If this happens, and a defendant’s details have already been released, the fact of the discontinuance must be released to the media as soon as practicable. Every effort should be made, through guidance and training, to make police officers aware of the need to inform their media/advisers in such cases. Because of these practical problems some forces have taken the view that they will only release details of the person charged when a court appearance is imminent or certain. Others do not release names until the court appearance.

2.4 The principal exceptions to this are juveniles, who must not be named, and cases involving victims of sexual offences, where the person charged must not be named if there is any danger that by doing so a (surviving) victim is identified. On other occasions, there may be operational reasons why the officer in the case wishes to withhold the name of the person charged until the court appearance.

3. Cautions

3.1 The name of someone cautioned for an offence should not be confirmed. However, it is possible to confirm that “a man” or “a woman” has been cautioned for a certain offence. If there is unlikely to have been more than one such
incident, this response may in effect give the media the confirmation they are seeking. The point at issue is the extent to which the facts of the case are confirmed.

3.2 Any confirmation of facts should only be in general terms, such as “an elderly woman was cautioned for shoplifting in a Preston shop”.

4. **Breath Tests**

4.1 On the basis of the advice in paragraph 2.1, the name of someone who has been tested should not be confirmed. Neither should the result of any breath test be given, because this is part of the investigative process prior to charge.

4.2 We should not discuss individuals who may or may not have been stopped and tested unless or until there is a charge. If the media have a witness to the incident, we may confirm that it took place without confirming identity.

5. **Speeding and Fixed Penalty Offences**

5.1 If an offender is dealt with by way of a fixed penalty, questions arise whether there should be no publicity, as with a caution, or whether the police are entitled to name (or confirm the name of) the offender.

5.2 If the fixed penalty is contested in the magistrates court, the name will appear publicly on a court list. It may be argued, however, that this is very different from a police press officer volunteering a name to a third party in response to a media enquiry.

5.3 We should not routinely volunteer or confirm a name in cases dealt with by way of fixed penalty. However, we should be prepared to review specific cases against a number of criteria. These might include the level of media interest, a judgement on whether a refusal to confirm remains tenable and the views of the individual concerned. We should also consider “the public interest” because, in uncontested cases, there is no judge or magistrate to take such a view.

5.4 If a member of the public complains directly to the media about police action in relation to a fixed penalty notice, we may take this as consenting to publicity and are thereby justified in making a response, which confirms the identity.

6. **Offences arising from Road Collisions or other incidents**

6.1 It may be that a party to a road crash or some other incident has already been identified to the media. How then do we adhere to similar principles if that person is subsequently the subject of enquiries which may lead to prosecution?

6.2 Where names are released in connection with road crashes or other incidents, we should not discuss whether the individual is being reported or investigated until they are charged (or until a final decision is made that no action is being taken).
6.3 With a hit-and-run crash, where the name of an offending driver is not known, the principle applies with opposite effect. When the driver is found and arrested, the fact may be given but no identity until charge.

7. Police Attendance at Specific Addresses

7.1 The physical presence of numbers of police in response to any call - especially if they are supported by use of a helicopter - may attract media attention. Press officers are used to dealing with such enquires on their merits, inviting publicity for searches, arrests and good police work but deflecting others which are operationally sensitive or security-related.

7.2 While it is unrealistic to lay down policy for every eventuality, the main consideration is, once again, that in handling such enquires we should not identify individuals as being the subject of police attention until or unless they have been charged with an offence. We should therefore respond by reference to general locations rather than specific addresses.

7.3 Provided the incident is based on a call from a member of the public (rather than a pre-planned operation, where other considerations apply), we may confirm in general terms that police were called to a disturbance, incident, or report of a crime, for instance. In doing so we can identify the village, locality or even an urban street, but not the house, number of house, name or indeed the street name if it is a tiny cul-de-sac. Care needs to be taken where houses are easily identifiable (for example, a large house in a small village).

8. Company Investigations

8.1 The Serious Fraud Office (SFO) has a flexible media policy, and many of the cases it deals with are in the public domain.

8.2 At force level, confirmation that a police investigation has begun may be withheld for a number of reasons, such as:

- share price (or general commercial) sensitivity;
- the danger of the subject being alerted, or documents being shredded, for example;
- the possibility that the allegation/complaint may be malicious or mischievous and/or totally without foundation.

8.3 At a later stage in an investigation, prior to charges, other factors may come into play. Media publicity may be helpful in bringing forward further evidence and witnesses or in alerting the public to malpractice.

8.4 There are sound reasons for a flexible policy in this area. If the investigating officer is anxious to avoid publicity at the time a serious media inquiry is made, a refusal to comment leaves the field open to harmful speculation. It may be preferable to negotiate with a journalist acting alone by seeking to delay publication, possibly in return for co-operation later.
8.5 In this specialised area, forces should rely on the professional expertise of investigators, in consultation with their force media advisors, to consider each media inquiry relating to company investigations on its merits.

8.6 Forces should, wherever possible, decline to discuss questions relating to named individuals within a company – have they been or will they be questioned by police? This is in line with SFO policy and accords with the principle that individuals should only be identified once they are charged.

The naming of victims or witnesses of crime, road collisions and other incidents

1. Introduction

1.1 The main purpose of this note is to clarify the procedure concerning the identification of individuals in accordance with the principles of a free flow of information between the Police Service and the media. All forces try to achieve a balance between their policies of openness in giving full and accurate information to the media, and their responsibilities for victim care together with legitimate rights to personal privacy underpinned by the Data Protection and Human Rights Acts. These, together with the common law, have been taken fully into account in preparing this note.

2. Application of the Data Protection Act: Recommended Procedures

2.1 The view of the Media Advisory Group is that the wishes of the victim, witnesses or next of kin, where necessary, must be sought at the earliest possible stage before deciding how to publicise a crime, road collision, or any other incident, in accordance with the Data Protection Act. The correctness of this position was confirmed by the Data Protection Registrar who said in a letter to the Press Gazette published on 27 August 1999, that she welcomed the ACPO Guidance and added: “... The guidance is in my view a proper interpretation of the law. It does not prevent disclosure of personal data to the media, but, where information relates to victims, it puts in place a procedure that gives due weight to the right to private life.”

2.2 In relation to juveniles, it should be noted that age is immaterial because, within the terms of the Data Protection Act 1998, everyone has the same rights. However, it is always advisable to seek the co-operation of a parent, guardian or other responsible adult in such circumstances.

2.3 When a victim or any other person who has provided their personal details to police states that their details should not be released to the media, this should be honoured unless police feel on a case by case basis there is an exceptional reason why such details must be given. The maintenance of good relations with the media, whilst important, is not itself sufficient reason.
2.4 Except in certain circumstances, such as those described in paragraph 2.7 below, a victim, witness or next of kin is entitled not to have their personal details released without their permission. They are not however entitled to request that police release no information of the incident whatsoever, provided that the information the police do release does not lead to their identification.

2.5 Where victims, witnesses or next of kin have agreed to the release of their personal details but where such a release may make them vulnerable to further crime (such as an elderly person living alone), a judgement may be made not to release those details. In such cases, the reasons for the decision should be explained to journalists to encourage them to follow suit should they find out the name from another source.

2.6 The Data Protection Act does not apply to deceased persons, as their names will become a matter of public record. Victims may therefore be named once positive identification has taken place and immediate relatives informed. It may be helpful to explain the reasons for any delay to the media to gain their support in withholding publication if they learn the identity from another source.

2.7 The Data Protection Act allows information to be released without the permission of the individual or individuals concerned in certain circumstances. Police fully recognise these provisions, which include the disclosure of personal details in the public interest, but the decision to release information on such grounds can only be made in light of each case. Particular circumstances in which details might be released without the consent of the person(s) concerned would include those following a major incident involving multiple victims: in such an event in order to minimise public alarm and distress, the release of casualties identities prior to formal authority having been obtained would be a legitimate policing purpose and thus satisfy the Data Protection Act.

2.8 There will be frequent occasions when media come to police seeking further details about information they have received from other courses. Even if authority has not been given, a judgement will have to be made on the course of action to take. As the person’s identity is already in the public domain, this will often provide an opportunity to give accurate information or to counter rumour and speculation. The principles outlined in the guidelines on ‘Individuals under Investigation’ should be followed.

2.9 Any active, or imminently active, legal proceedings should be borne in mind when considering the release of names of those injured. For example, when victims have been injured while in a suspected stolen vehicle, their medical condition may have prevented an immediate arrest and proceedings are not, therefore, technically active. Normally, if an early arrest is deemed likely, the identity of such a victim should be withheld until he or she is charged, even if consent has been given, in line with the guidelines on ‘Individuals under Investigation’. When juveniles are charged their identities will not be released. If no criminal proceedings against individuals are instigated, their identities and other details could then be revealed as indicated above.
3. **Recommended Question to Victims and Witnesses**

3.1 It is important when dealing with all victims, witnesses or next of kin that police staff should ask a balanced question to establish consent, recorded in accordance with force procedure, as is the current practice for victims of crime. In many cases they are likely to agree, as the experience in dealing with victims of crime is that they very often have no objection to the details being passed to the media.

3.2 The Police Service should be supportive of a free flow of information to the media. This guidance is not intended to obstruct that, but to ensure that police forces adhere to the law and that individuals’ rights are respected. It is recommended that the consent of victims and witnesses is sought in the first instance and, therefore, they should be asked the question “We often find it helpful in our enquiries to pass on someone’s details to the media. Do you object if we do that in your case?”

8.7 If the media asks a force about an investigation that is already with the SFO, the caller should not be referred automatically to the SFO as this, in itself, virtually provides the required confirmation. The media inquiry should be noted and consultation should take place before any response is given.

9. **Refusal to Comment**

9.1 To offer “No Comment” surrenders the opportunity to influence media coverage. However, there may be very rare occasions when this is felt to be the only possible course of action. One such example may be where a public figure is the innocent victim of an outrageous libel and where confirmation that police are investigating a complaint might give the media grounds for using the victim’s name.

9.2 “Not prepared to discuss” may be the only appropriate response in the most exceptional cases. It should be regarded very much as a last resort. Indeed a principal purpose of these guidelines is to offer acceptable alternatives to such a course of action.
Appendix ‘D’  Protocol for Collision Investigation and Reconstruction within the Police Service

Association of Chief Police Officers Traffic Committee 1995

1. Introduction

Commitment to providing the highest quality of service to the public has resulted in a higher degree of professionalism being brought to the investigation of road collisions, particularly those involving death and serious injury.

Investigation of the circumstances surrounding death and serious injury on the roads is one of the most important activities within the field of traffic policing. It is essential that a thorough and impartial investigation is carried out, seeking out best evidence to provide information to those personally affected and to any subsequent court of enquiry. The role of the collision investigation officer is crucial to this process.

The Police Service has built up a level of expertise in the field of collision investigation and reconstruction since its introduction in the 1970s. This expertise is now recognised by the civil and criminal courts and by HM Coroners.

The credibility of police collision investigation is dependent upon every officer who undertakes this type of work.

The purpose of this document is to safeguard expertise and credibility by providing a common standard for the conduct of collision investigation and reconstruction within the police service.

The collision investigation officer is an expert witness. He or she must carry out an impartial and thorough investigation, drawing on all available evidence to determine what happened rather than simply directing effort towards securing a conviction.

2. Training

All police forces, which undertake collision investigation and reconstruction, should aim to train collision investigation officers to City and Guilds standard. It is recommended that this should be achieved within two years from the time the officer first undertakes this type of work.

All investigations carried out by trainee collision investigation officers will be supervised by an officer trained to City and Guilds standard.

An investigation for evidential purposes will only be carried out by an investigator who

• has successfully completed a minimum of three weeks training at an approved training centre; and
• has been certified by the Senior Collision Investigation Officer as being competent to work unsupervised.

All police forces should embrace the need to send collision investigation officers on further training courses, both internal and external, in order to enhance their knowledge of ancillary topics. Such courses include all aspects of vehicle technology, the examination of motor vehicles, tachographs, and the examination of tyres and light bulbs.

There is proven benefit in allowing collision investigation officers to carry out practical tests regularly on vehicle handling and related topics in a safe and controlled environment. Police forces should consider providing them with this facility.

3. Validation of Evidence

It is imperative that conclusions reached as the result of an investigation are supportable in each of the following areas:

• the conclusions reached are supported by the evidence available
• scientific laws and principles have been correctly used within their proper context
• any calculations used in reaching the conclusions are both valid and numerically correct.

The degree of validation required will depend upon the experience and expertise of the collision investigator and the complexity of the investigation.

As a minimum, all collision investigation evidence should be validated by one other collision investigator who is qualified to at least City and Guilds standard, who is independent of the investigation, who can certify he or she has done so and is satisfied with evidence.

Where an investigation is particularly complex or it involves the application of physical laws or complex mathematics which are beyond the ability of the investigator to explain and prove to the satisfaction of a court, the evidence must be validated by another investigator (whether a police officer or otherwise) who does have the necessary knowledge and ability.

When selecting individuals to validate complex collision investigation evidence a clear distinction, based upon the type of validation required, must be drawn between those who possess academic qualifications and those with experience and expertise in the practical aspects of collision investigation. Although there are experienced practitioners who combine both areas of expertise, it must be recognised few police officers combine the appropriate level of practical expertise with relevant academic qualifications.
4. **Scientific Support**

It is recognised many collision investigation officers have developed substantial expertise in a range of ancillary areas such as the forensic examination of tyres, light bulbs and tachograph charts.

It is imperative every investigator recognises the limits of his or her knowledge and expertise. Use must be made of scientific and other specialist support whenever the requirements of the investigation exceed those limits.

5. **The Use of Computers in Collision Investigation**

Computers can provide useful assistance in the investigation of road collisions, although there is a real danger that careless or ill-considered use of computer programmes can give misleading results.

Computers must never be used as a substitute for a thorough investigation based on the investigator’s knowledge and expertise. An officer using a computer programme in the course of an investigation must have some knowledge of the processes involved and a full understanding of the effect of variable inputs on the final result.

The collision investigation officer must consider the validity of the results obtained from a computer program in the light of his own experience and expertise. If there is any reason to doubt those results, they should be rejected or investigated further. Wherever possible, results obtained from a computer program should be corroborated by other evidence.

The requirements of this section apply to all computer-based systems including Computer Aided Plan Drawing Systems.

6. **Use of Collision Investigation Officers**

The skills provided by an collision investigation officer are such that one should be involved in the investigation of every road death, preferably at an early stage.

Where a police force is unable to provide a level of skill from within its own resources, consideration should be given to obtaining the services of a collision investigator from another force.
Appendix ‘E’ Memorandum of Good Practice re Early Release of Bodies in Cases of Suspicious Death

All Agencies

Steps to secure the early release of the body in any suspicious death, including murder, manslaughter, infanticide and causing death by dangerous driving, will be treated as priority by all agencies involved, subject to the interests of the criminal justice system. All agencies concerned will recognise early release is essential to assist the family in coping with their grief.

No national or local investigative or procedural changes should be introduced without considering the effect on the early release of bodies and ways to minimise any delays.

The Police

The SIO should designate clearly in the Policy Book an Officer to be Liaison Officer with the coroner, defence team(s) and pathologist(s). This officer who may be a Coroner’s Officer, should also be responsible for production of the necessary file relating to identification, which will allow the opening of an inquest.

The SIO should be proactive in pursuing early resolution of all post mortem examinations in cases where a suspect has been arrested or charged. This officer should ensure all necessary action is taken to satisfy the coroner all examinations are completed and the body can be released. This should include liaison with whichever agency is conducting forensic examinations associated with the post mortem to ensure early results are obtained. The SIO should have contact with the coroner and pathologist when the post mortem report is likely to be delayed (See under Pathologist below).

The SIO should co-operate with the coroner in meeting requests from the defence for early disclosure if this will assist in the early release of the body.

In all instances, the SIO should ensure the victim’s family are kept aware of developments, are provided with the Home Office Victims Family Pack and are given appropriate support.

The Coroner

In all cases, a coroner will exercise his discretion judicially and with due regard to the interests of justice. A coroner is not bound to observe the procedures in this memorandum, but it is recommended to do so unless he is satisfied there is good and proper cause to do otherwise.

When a death is reported, the coroner will observe the provisions of the Coroner’s Rules 1984 (ie Rules 5,6 and 7) so far as the arrangements for the post mortem examination are concerned. In arranging a post mortem examination, the coroner will make clear to the pathologist the circumstances of the death and the need for his report to be supplied without delay and in any event within 14 days (see paragraph 20 below). When the
examination is complete, the coroner will immediately provide copies of the report, when received, to all those having a proper interest including the Chief Officer of Police, and any person who has been charged in connection with the death (and their legal advisers). Any photographic or video recording taken at such examination shall also be supplied. (These will be made available to the police.) The next of kin to the deceased should also be advised the report is available.

The coroner will not, within the 14 days immediately following the post mortem examination, release the body to those entitled to possession unless he has received written confirmation from all such interested persons they know no reason why such release should not take place.

Where the Coroner is informed by the Chief Officer of Police that a person may be charged with the murder, manslaughter or infanticide of the deceased but no person has been so charged by date and it appears to the Chief Officer unlikely any person will be so charged within 28 days from the date of discovery of the homicide, he or she shall inform the coroner who shall arrange for a further examination to take place, as soon as possible and in any event no later than 28 days after the first examination, to be conducted by a suitably qualified forensic pathologist. Such a pathologist must be independent from the pathologist who performed the initial post mortem (i.e. normally from a different establishment). This is not to say they should not discuss their respective findings.

It will be a matter for the coroner to decide whether to provide the police with a copy of the report from any such second post mortem examination, but it will normally be proper to do so. The second report will be retained by the Coroner and, in the event that an arrest in connection with the death is subsequently made, he or she will provide a copy of the second report to the defendant or his legal representatives.

In the event significant discrepancies arise between the first and the second post mortem reports the coroner will without delay consider whether to commission a third examination. It will not normally be appropriate to provide the third pathologist with either of the previous reports or to seek to reconcile the differences between the earlier reports. The third pathologist should again be independent of the first two pathologists (i.e from a different establishment). As soon as the coroner has decided no further examination is necessary, the body will be released for disposal by the family/executors.

If the coroner is advised by the Chief Officer of Police it is likely a person will be arrested in connection with any of the offences given in paragraph 10 within a period of 28 days from the date of discovery of the homicide, he or she shall not release the body until a person is charged, or until the expiration of period, whichever is the shorter. If a person is so charged, the coroner will serve on him a copy of the report of the initial examination and records in accordance with paragraph 8 above. If no charges are made, the procedures set out in paragraph 10 will apply.

Unless the coroner receives written confirmation from all those having a proper interest (other than from those to whom he is proposing to release the body) that they have no objection to the body being released, the coroner shall, not less than 5 days before the
proposed release of the body, notify his intention to do so in writing to all those persons who have not confirmed they have no objection to the release of the body.

The coroner will not normally raise any objection to a further post-mortem examination being conducted for or on behalf of any person who may have a proper interest provided such further examinations are conducted without undue delay and after proper notice has been given to the coroner. Any such examinations will be arranged at the expense of the person concerned, save in the cases of examinations undertaken pursuant to paragraph 4. However, the coroner should question the necessity of a second or subsequent post mortems in all cases where it may be unnecessary (e.g. death by dangerous driving cases), is likely to delay the release of the body or where a single post mortem on behalf of all joint defendants would appear to suffice. Care should be taken to ensure any decision to refuse permission for a further examination and to release the body is not likely to prejudice the interests of justice.

The above procedures are not applicable in cases where the identity of the body has not been established. In these circumstances, the imperative will be to ascertain the identity of the body and to contact the next of kin. Once relatives have been contacted, any outstanding enquiries and actions should proceed in accordance with the principles set out in this memorandum.

Coroners should ensure the laboratories to which they or their pathologists entrust histological, toxicological or other analyses in homicide cases understand the work should be treated as a top priority and not be allowed to delay unnecessarily the release of the body.

**The Pathologist**

The time taken for the pathologist to produce his report is a key factor in the early release of the body. Until this report is produced, importance decisions (such as the need for a second post mortem) cannot be taken. The aim will be for the examination to take place within 24 hours, and for the report to be made available to the coroner and the police as soon as possible and in any event within 14 days of the examination, even if histological or toxicological analyses are not then ready (although the reports should be qualified accordingly). Full consultation should take place with the Senior SIO and coroner if the report is delayed because of these or for any other reasons.

Where further tests need to be carried out by third parties, pathologists should have regard to the approach set out in paragraph 18 above.

**The Law Society**

In most cases where a solicitor is instructed on behalf of a client charged with murder, manslaughter, infanticide (and in some cases of offences under s.1 and 3(a) Road Traffic Act), it will be necessary to confirm the exact cause of death or to examine forensically the nature and origins of the wounds sustained by the deceased. Such investigations necessarily cause delay in the burial or cremation of the deceased and inevitably prolong the distress to relatives and friends.
Advice given by the Criminal Law Committee of the Law Society is designed to ameliorate the situation although in no way detracting from or undermining the solicitor’s primary duty and obligation to his/her client to procure and acquire evidence in support of the client’s case.
Appendix ‘F’  Charging Standard - Agreed by the Police and Crown Prosecution Service

1. Charging Standard – Purpose

1.1 The purpose of a joint charging standards is to make sure the most appropriate charge is selected, which in light of the evidence can be proved, at the earliest possible opportunity. This will help the police and crown prosecutors to prepare the case. Adoption of this joint standard should lead to a reduction in the number of times charges have to be amended which in turn should lead to an increase in efficiency and a reduction in avoidable extra work for the police and the Crown Prosecution Service.

1.2 This joint charging standard offers guidance to police officers who have responsibility for charging and to Crown Prosecutors on the most appropriate charge to be preferred in cases relating to driving offences. The guidance:

- **should not be used** in the determination of any *pre-charge* decision, such as the decision to arrest;
- **does not** override any guidance issued on the use of appropriate alternative forms of disposal *short of charge*, such as cautioning;
- **does not** override the principles set out in the Code for Crown Prosecutors;
- **does not** override the need for consideration to be given in every case as to whether a charge/prosecution is in the public interest;
- **does not** remove the need for each case to be considered on its individual merits or fetter the discretion of the police to charge and the CPS to prosecute the most appropriate offence depending on the particular facts of the case in question.

2. Introduction

2.1 The purpose of road traffic legislation is to promote road safety and to protect the public. The principal driving offences are contained in the Road Traffic Act 1988 (RTA 1988). This joint standard gives guidance about the charge which should be preferred if the criteria set out in the Code for the Crown Prosecutors are met.

2.2 This standard covers the following offences:

- careless driving or inconsiderate driving - Section 3 RTA 1988
- dangerous driving - Section 2 RTA 1988
- causing death by careless driving when under the influence of drink or drugs - Section 3A RTA 1988
- causing death by dangerous driving - Section 1 RTA 1988
- manslaughter - contrary to common law
causing bodily harm by wanton or furious driving, etc - Section 35 of the Offences Against the Person Act 1861.

3. **General Principles - Charging Practice**

3.1 You should always have in mind the following general principles when selecting the appropriate charge(s):

- the charge(s) should accurately reflect the extent of the defendant’s alleged involvement and responsibility thereby allowing the courts the discretion to sentence appropriately;
- the choice of charges should ensure the clear and simple presentation of the case particularly where there is more than one defendant;
- it is wrong to encourage a defendant to plead guilty to a few charges by selecting more charges than are necessary;
- it is wrong to select a more serious charge which is not supported by the evidence in order to encourage a plea of guilty to a lesser allegation.

4. **General Comments about Driving Offences**

4.1 The manner of the driving must be considered objectively. In practice, the difference between the two types of bad driving will depend on the degree to which the driving falls below the minimum acceptable standard. If the manner of the driving is below that which is expected, the appropriate charge will be careless driving; if the manner of the driving is far below that which is expected, the appropriate charge will be dangerous driving. There is no statutory guidance about what behaviour constitutes a manner of driving which is “below” and “far below” the required standard.

4.2 The purpose of this charging standard is to make sure that once a decision to prosecute has been taken, police officers and prosecutors select the most appropriate charge where there is a choice of two or more charges. The following factors are not relevant when deciding whether an act of driving is careless or dangerous:

- the injury or death of one or more persons involved in a road traffic accident, except where Parliament has made specific provision for the death to be reflected in the charge. Importantly, injury or death does not, by itself, turn an accident into careless driving or turn careless driving into dangerous driving;
- the age or experience of the driver;
- the commission of other driving offences at the same time (such as driving whilst disqualified or driving without a certificate of insurance or a driving licence);
- the fact the defendant has previous convictions for road traffic offences;
• the disability of a driver caused by mental illness or by physical injury or illness, except where the disability adversely affected the manner of the driving.

4.3 There is no clear cut dividing line between acts of careless driving and acts of dangerous driving. True momentary inattention will not usually have very serious adverse affects and therefore does not usually warrant criminal proceedings. Something more than momentary inattention (which may have minimal or serious results) is generally careless driving. Substantial/gross/total inattention (which may have minimal or serious results) is generally dangerous driving, even though it may take place over a period of a few seconds. The factual examples set out in this standard are merely indicative of the sort of behaviour which may merit prosecution under either Section 2 or Section 3 RTA 1988.

4.4 It is important to put the facts of the case in context. Although the test is objective, the manner of the driving must be seen in the context of the circumstances in which the driving took place. Behaviour which may not be criminal in certain conditions may merit proceedings in other conditions, for example, a safe lane change in slow moving traffic may become unsafe on a motorway where speeds are faster, there is less time to react and the consequences of any accident are likely to be more serious. Similarly, behaviour that might merit proceedings under Section 3 in certain conditions, may merit a prosecution under Section 2, for example, if there is poor visibility; increased volume of traffic; adverse weather conditions; or difficult geography, such as blind corners.

Driving in Emergency Situations

4.5 When a member of the emergency services commits an offence while responding to an emergency call discretion should be used in deciding whether or not a prosecution is needed. Generally, a prosecution is unlikely to be appropriate in cases of genuine emergency unless the driving is dangerous or indicates a high degree of blameworthiness. For example, a prosecution of a driver who caused a minor accident whilst responding to an urgent, life threatening, emergency may not be appropriate; but a prosecution may be appropriate when a serious accident is caused by an over-enthusiastic driver responding to a less urgent emergency call in which life is not threatened. In each case, it is necessary to weigh all the circumstances of the case, particularly the nature of the emergency known to, or reasonably perceived by, the driver and the nature of the driving.

4.6 There will be cases when persons who are not members of the emergency services drive in an emergency situation. Examples include doctors who receive an urgent call for assistance and a driver taking a sick child to hospital. As with members of the emergency services, all the circumstances of the case must be weighed, particularly the nature of the emergency known to, or reasonably perceived by, the driver and the nature of the driving.
Driving and Alcohol/Drugs

4.7 The road traffic legislation treats the consumption of alcohol and drugs alike. The following principles apply to driving affected by the consumption of alcohol or drugs, though the case law, and the following paragraphs, focus on alcohol.

4.8 Assessing the relevance of the consumption of alcohol is a difficult area. The leading authority is *R v Woodward (Terence) [1995] 1 WLR 375* (Court of Appeal). The following general principles come from case:

- the mere fact that the driver has had drink is not of itself relevant to or admissible on the question of whether their driving is careless or dangerous;
- for such evidence to be admissible, it must tend to show that the amount of drink taken is such as would adversely affect a reasonable driver, or alternatively, that the accused was in fact adversely affected.

4.9 In practice, however, there will need to be some further evidence to show that the manner of the driving fell below or far below that which is to be expected in order to justify proceedings under section 3 or section 2 respectively.

5. Careless Driving - Section 3 RTA 1988

5.1 The offence of driving without due care and attention is committed when the driving falls below the standard expected of a reasonable, prudent and competent driver in all the circumstances of the case. It is a summary only offence carrying a level 4 fine (£2,500), discretionary disqualification for any period and/or until a driving test has been passed. The court must endorse the driver’s licence with 3-9 penalty points unless there are special reasons not to do so.

5.2 The test of whether the standard of driving has fallen below the required standard is an objective one. It applies both when the manner of driving in question is deliberate and when the manner of driving occurs as a result of an error of judgement or simply as a result of incompetence or inexperience.

5.3 Section 38(7) RTA 1988 states failure on the part of a person to observe a provision of the Highway Code shall not of itself render that person liable to criminal proceedings, but a failure, particularly a serious one, may constitute evidence of careless or dangerous driving.

5.4 In general, prosecution for careless driving will be appropriate when the manner of the driving demonstrates a serious miscalculation or a disregard for road safety, taking into account all the circumstances including road, traffic and/or weather conditions.

5.5 There will be rare occasions where an accident occurs and yet there is no evidence of any mechanical defect, illness of the driver or other explanation to account for why the accident happened. In these cases, a charge of careless driving may be appropriate. The prosecution can provide evidence to the court
about the accident on this basis in the absence of any explanation - such as the ones identified above - it is inevitable that the defendant must have been driving below the standard expected of a reasonable, prudent and competent driver, since otherwise the accident would not have happened.

5.6 The following are examples of driving which may support an allegation of careless driving:

- acts of driving caused by more than momentary inattention and where the safety of road users is affected, such as:
  - overtaking on the inside;
  - driving inappropriately close to another vehicle;
  - driving through a red traffic light;
  - emerging from a side road into the path of another vehicle;
  - turning into a minor road and colliding with a pedestrian.

- conduct which clearly caused the driver not to be in a position to respond in the event of an emergency on the road, for example:
  - using a hand held mobile telephone while the vehicle is moving, especially when at speed;
  - tuning a car radio;
  - reading a newspaper/map;
  - selecting and lighting a cigarette/cigar/pipe;
  - talking to and looking at a passenger which causes the driver more than momentary inattention;
  - leg and/or arm in plaster
  - fatigue/nodding off.

The above examples explain the driver’s conduct rather than demonstrate a course of driving which necessarily falls below the objective standard of the driving itself. For example, they may explain why the driver veered across carriageways, passed through a red traffic light or otherwise caused a danger to other road users. In these cases, it is necessary to go beyond the explanation for the driving and consider whether the particular facts of the case warrant a charge of careless or dangerous driving. The reason for the driver’s behaviour is not relevant to the choice of charge: it is the acts of driving which determine whether the driver has fallen below (careless driving) or far below (dangerous driving) the standard required.

These examples are placed here because usually when this conduct occurs the appropriate charge will be section 3. But police officers and prosecutors must always consider the manner of the driving in the context of the other facts in the case to decide the most appropriate way forward.

5.7 In deciding whether a charge of careless driving is appropriate, you will want to consider whether the act of driving concerned was the result of either momentary
inattention or an isolated misjudgement, or something more serious. A moment’s
inattention which causes the manner of the driving to fall below the objective
standard required of the reasonable, prudent and competent driver need not, of
itself, lead to a prosecution. It is acts caused by more than momentary inattention
- especially where the manner of the driving adversely affects the safety of other
road users - which will normally result in a charge of careless driving.

5.8 In cases where there has been a collision and the evidence suggests that more
than one driver may have been at fault, it will be necessary to establish that there
is independent evidence against each driver before charging any individual
driver, or that the facts speak so strongly for themselves in relation to any
individual driver that the only conclusion possible to draw is that he departed
from what a reasonable, prudent and competent driver would have done in the
circumstances.

5.9 The public interest in favour of a prosecution is proportionate to the degree of
blameworthiness: the greater the blameworthiness, the greater the public interest
in favour of prosecuting. In addition, the public interest will favour prosecuting
in cases when the court may wish to make an order under section 36 of the Road
Traffic Offenders Act 1988, disqualifying the driver until he passes a driving test;
or where it appears that the court ought to notify the Secretary of State that the
driver may be suffering from any relevant disability within the meaning of
section 22 Road Traffic Offenders Act 1988.

5.10 However, the public interest does not call for a prosecution in every case where
there is a realistic prospect of conviction for careless driving; prosecution for an
act of slight carelessness is unlikely to have a deterrent effect; and it is not the
function of the prosecution to conduct proceedings merely to settle questions of
liability for the benefit of insurance companies.

5.11 The public interest will tend to be against a prosecution for careless driving
where:

• the incident is of a type which frequently occurs at parking places,
roundabouts, junctions or in traffic queues, involving minimal
carelessness such as momentary inattention or a minor error of
judgement;

• only the person at fault suffered injury and damage, if any, was mainly
restricted to the vehicle or property owned by the person.

5.12 In addition, there is often an overlap between careless driving and some other
offences such as driving with excess alcohol, regulatory offences, offences of
strict liability, or offences under the Road Vehicles (Construction and Use)
Regulations 1986. The merit of many individual cases can be adequately met by
charging the specific statutory or regulatory offence, which Parliament made
available, subject to paragraphs 5.13 and 5.14 below.

5.13 Sometimes, there will be evidence of a course of conduct that involves the
commission of a number of different statutory or regulatory offences, or the
commission of the same statutory or regulatory offence on a number of occasions which are very close in time with one another. For example, a driver may drive through a red traffic light, ignore a pelican crossing and fail to give way at a junction within what might reasonably be described as the same course of driving. Alternatively, a driver may drive through two or more sets of red traffic lights, one after the other, within what may reasonably be described as the same course of driving.

5.14 In these situations, it is not appropriate simply to charge a number of individual statutory or regulatory offences: the court needs to be made aware of the link between what might otherwise appear as isolated incidents, when in reality they form part of a more serious course of bad driving. This course of bad driving should be reflected in a more serious charge. Where this type of situation arises, the manner of the driving has, in reality, fallen far below expected of a competent and careful driver because of the driver’s systematic failure to pay heed to the relevant traffic directions. Accordingly, consideration should be given to prosecuting the driver under section 2 of the Act: see paragraph 7.

6. Driving without reasonable consideration - Section 3 RTA 1988

6.1 The offence of driving without reasonable consideration is committed when a vehicle is driven on a road or other public place as a result of which other persons using the road or place are inconvenienced. It is a summary only offence carrying a level 4 fine (£2,500), discretionary disqualification for any period and/or until a driving test has been passed. The court must endorse the driver’s licence with 3-9 penalty points unless there are special reasons not to do so.

6.2 The accused must be shown:

- to have fallen below the standard of a reasonable, prudent and competent driver in the circumstances of the case; and
- to have done so without reasonable consideration for others.

6.3 The difference between the two offences under section 3 is that in cases of careless driving the prosecution need not show that any other person was inconvenienced. In cases of inconsiderate driving, there must be evidence that some other user of the road or public place was inconvenienced.

6.4 An allegation of inconsiderate driving is appropriate when the driving amounts to a clear act of selfishness, impatience or aggressiveness. There must, however, also be some inconvenience to other road users, for example, forcing other drivers to move over and/or brake as a consequence. Examples of conduct appropriate for a charge of driving without reasonable consideration are:

- flashing of lights to force other drivers in front to give way;
- misuse of any lane to avoid queuing or gain some other advantage over other drivers;
- unnecessarily remaining in an overtaking lane;
• unnecessarily slow driving or braking without good cause;
• driving with undipped headlights which dazzle oncoming drivers;
• driving through a puddle causing pedestrians to be splashed.

6.5 A person who drives without reasonable consideration for other road users can be convicted of driving without due care and attention although the reverse does not apply.

7. **Dangerous Driving - Section 2 of the Act**

7.1 A person drives dangerously when:

- the way he drives falls **far below** what would be expected of a competent and careful driver; **and**
- it would be obvious to a competent and careful driver that driving in that way would be dangerous.

7.2 Both parts of the definition must be satisfied for the driving to be “dangerous” within the Act. Dangerous driving is an either way offence. In the magistrates’ courts the maximum penalty is a level 5 fine (£5,000), and/or six months imprisonment; in the Crown Court, the maximum penalty is 2 years imprisonment and/or an unlimited fine. In both instances, the court must disqualify the driver from driving for at least one year and must endorse the driver’s licence with 3-11 penalty points unless in either case there are special reasons not to do so.

7.3 The test of whether a driver has fallen far below the required standard is an objective one. It applies both when the manner of driving in question is deliberate and when the manner of driving occurs as a result of an error of judgement or simply as a result of incompetence or inexperience.

7.4 There is no statutory definition of what is meant by “far below”, but “dangerous” must refer to danger either of injury to any person or of serious damage to property: S2A(3) of the Act. Additionally, S2A(2) of the Act provides that a person is to be regarded as driving dangerously if it would be obvious to a competent and careful driver that driving the vehicle in its current state would be dangerous. When considering the “state” of the vehicle, regard may be had to anything attached to or carried by the vehicle: section 2A(4) of the Act. Therefore, you must consider whether the vehicle should have been driven at all, as well as how it was driven.

7.5 The standard of driving must be objectively assessed. It is not necessary to consider what the driver thought about the possible consequences of his actions. What must be considered is whether or not a competent and careful driver would have observed, appreciated and guarded against obvious and material dangers.

7.6 In deciding whether a charge of dangerous driving is appropriate, you will want to consider whether the act of driving concerned was undertaken deliberately and/or repeatedly. Although the test of dangerousness is an objective one,
deliberate or repeated disregard, for example, of traffic directions (be they “stop” or “give way” signs or traffic lights) may be evidence that the manner of the accused’s driving has fallen far below the standard required, thereby making a charge of dangerous driving appropriate.

7.7 The following are examples of driving which may support an allegation of dangerous driving:

- racing or competitive driving;
- prolonged, persistent or deliberate bad driving;
- speed which is highly inappropriate for the prevailing road or traffic conditions;
- aggressive or intimidatory driving, such as sudden lane changes, cutting into a line of vehicles or driving much too close to the vehicle in front, especially when the purpose is to cause the other vehicle to pull to one side to allow the accused to overtake;
- disregard of traffic lights and other road signs, which, on an objective analysis, would appear to be deliberate;
- failure to pay proper attention, amounting to something significantly more than a momentary lapse;
- overtaking which could not have been carried out with safety;
- driving a vehicle with a load which presents a danger to other road users.

8. Causing Death by Careless Driving under the Influence of Drink or Drugs - Section 3A RTA 1988

8.1 This offence is committed when:

- the driving was without due care and attention or without reasonable consideration for other road users; and
- the driving has caused the death of another person; and
- the driver is either unfit through drink or drugs, or the alcohol concentration is over the prescribed limit, or there has been a failure to provide a specimen in pursuance of the RTA 1988.

8.2 It is an offence triable only on indictment and carries a maximum penalty of 10 years imprisonment and/or an unlimited fine and an obligatory disqualification for a least 2 years (3 years if there is a previous relevant conviction). The driver’s licence must be endorsed with 3-11 penalty points.

8.3 The examples given in paragraph 5 of careless driving apply to this offence; in the context of section 3A, less serious examples of careless driving (which may not of themselves require a prosecution under section 3 alone) may also merit proceedings under section 3A.

8.4 The accused’s driving must have been a cause of the death but need bot be the sole one.
8.5 Proper procedures have to have been adopted in the requesting and/or obtaining of any sample of breath, blood or urine. In cases where the procedures are flawed, there is a risk the evidence may be excluded. Where this is possible, careful consideration must be given to whether the remaining evidence will support an alternative allegation of causing death by careless driving whilst unfit to drive through drink/drugs, in which case, evidence other than that from an intoximeter machine can be relied upon to demonstrate the defendant’s unfitness to drive.

8.6 It is not necessary to add a further charge relating to drink/driving when the defendant is charged with a section 3A offence, because a guilty verdict to the relevant drink/drive offence can be returned by the jury under the statutory provisions: see paragraph 14.

9. **Causing Death by Dangerous Driving - Section 1 RTA 1988**

9.1 This offence is committed when:

- the driving of the accused was a cause of the death of another person and
- the driving was dangerous within the meaning of section 2A of the Act (see paragraph 7.3 of this standard).

9.2 The offence is triable only on indictment and carries a maximum penalty of 10 years imprisonment and/or an unlimited fine with an obligatory disqualification for a minimum of 2 years. The driver’s licence must be endorsed with 3-11 penalty points.

9.3 The accused’s driving must have been a cause of the death but need not be the sole one.

9.4 The examples given in paragraph 7 of dangerous driving applies to this offence.

9.5 Where a section 1 offence can be proved and there is sufficient evidence of a section 4, 5 or 7 offence, the appropriate summary offence should be charged and adjourned sine die pending the outcome of the section 1 offence - these offences cannot be committed to the Crown Court under section 41(1) Criminal Justice Act 1988. If the defendant is convicted of the section 1 offence, the court will often make it clear that the sentence imposed reflects the element of drink/driving, in which case the summary offence should not subsequently be pursued. Where the defendant is acquitted of the section 1 offence (or is convicted but it is clear the court has not taken the element of drink/driving into account) prosecutors should consider re-activating the drink/drive offence.

10. **Relationship between Section 1 and Section 3A RTA 1988**

10.1 Offences under section 1 and section 3A carry the same maximum penalty, so the choice of charge will not inhibit the court’s sentencing powers. The courts have made it clear that for sentencing purposes the two offences are to be regarded on an equal basis. *(Attorney General’s Reference (No 49 of 1994) R v BROWN [1995] Crim LR 437; R v Locke [1995] Crim LR 438).*
10.2 The court will sentence an offender in proportion to his criminality. The consumption of alcohol is an aggravating feature increasing the criminality of the offender and therefore the sentence passed. The consumption of alcohol is an aggravating feature within the definition of section 3A. The consumption of alcohol is not part of the definition of section 1 but may be treated as an aggravating feature in appropriate cases.

10.3 Where a section 1 offence can be proved, it should be charged. However, you may on occasions have to decide which is the more appropriate charge: section 1 or section 3A. This will almost always occur when the manner of the driving is on the borderline between careless and dangerous. The prosecution is likely to be put to election if the two offences are charged in the alternative. In borderline cases, section 3A should be chosen provided all the other elements of that offence can be proved. The prospects of a conviction will be greater and the court’s sentencing power remains unaffected.

11. Manslaughter - Contrary to Common Law

11.1 Manslaughter is committed when the driver, in breach of a duty of care, is criminally negligent and causes the death of the victim.

11.2 The offence is triable only on indictment and carries a maximum sentence of life imprisonment and/or an unlimited fine. The driver must be disqualified for at least two years and there is a compulsory re-test. The driver’s licence must be endorsed with 3-11 penalty points.

11.3 The driver must be shown to have been in breach of a duty of care towards the person who died. The ordinary principles of the law of negligence apply to ascertain whether there is such a duty. There is a general duty of care on all persons not to do acts imperilling the lives of others. To show a breach of a duty of care will require proof that the driving:

- fell far below the minimum acceptable standard of driving; and
- involved a risk of death; and
- was so bad in all the circumstances as, in the opinion of the jury, to amount to a crime (R v Adomako [1994] 3 All ER 79).

11.4 The examples of driving that fall far below the minimum acceptable standard of driving set out in paragraph 7.7 apply here as well.

11.5 This charge will very rarely be appropriate in road traffic fatality cases because of the existence of the statutory offences.

11.6 Manslaughter should be considered when a vehicle has been used as an instrument of attack (but where the necessary intent for murder is absent) or to cause fright and death results.

11.7 Manslaughter should also be considered where the driving has occurred other than on a road or other public place, or when the vehicle driven was not
mechanically propelled, and death has been caused. In these cases, the statutory
offences do not apply.

12. **Causing Bodily Harm by Wanton and Furious Driving -
Section 35 Offences Against the Person Act 1861**

12.1 It is an offence for any person in charge of a vehicle:

- to cause or cause to be done bodily harm to any person; by
- wanton or furious driving, or other wilful misconduct, or by wilful
  neglect.

12.2 It is an offence triable only on indictment and carries a maximum penalty of 2
years imprisonment and/or an unlimited fine.

12.3 This offence should be used rarely as it does not carry endorsement or
disqualification. It should normally only be used on occasions when it is not
possible to prosecute for an offence under the road traffic legislation, for
example:

- when the driving was not on a road or other public place;
- when the vehicle used is not a mechanically propelled vehicle within the
  RTA 1988;
- when the statutory notice of intended prosecution is a prerequisite to a
  prosecution and has not been given.

12.4 This offence is useful in cases when a victim suffers serious injury though there
has been no direct contact between the victim and the vehicle. For example,
when the driving caused the victim to take avoiding action and as a result of
which sustained serious injury by, say, falling down a ditch.

12.5 When a vehicle has been deliberately used as a weapon and has caused injury,
alternative charges of dangerous driving under s2 of the Act or s18 Offences
Against the Person Act 1861 should be considered if all the elements of those
offences could be proved.

13. **Road Traffic Fatality Cases: ‘Nearest and Dearest’**

13.1 In addition to the public interest considerations set out in the Code for Crown
Prosecutors, special considerations apply to cases when there is a family or other
close personal relationship between the deceased and the accused driver. These
are often referred to as “nearest and dearest” cases. The considerations are
unlikely to be relevant in any case where the evidence would support proceedings
for manslaughter.

13.2 In each case, the particular circumstances and the nature of the relationship will
have to be considered. The closer the relationship between the deceased and the
accused driver, the more likely it will be that the guidance which follows will
apply.
13.3 In cases of causing death by dangerous driving involving the death of a “nearest and dearest”, where there is evidence to suggest an aggravating feature which imperils other road users or that the accused is a continuing danger to other road users, the proper course will be to prosecute for dangerous driving (section 2). The focus of the case will then be the imperilling of other road users.

13.4 Additionally, if the accused drove in such a way as to show serious disregard for the lives of the “nearest and dearest” or other road users, notwithstanding that a “nearest and dearest” has been killed, proceedings for causing death by dangerous driving should be considered.

13.5 However, in cases of causing death by dangerous driving involving the death of a “nearest and dearest”, where there is no evidence either of an aggravating feature imperilling other road users nor that the accused is a continuing danger to other road users, the proper course is not to prosecute.

13.6 In cases of causing death by careless driving while under the influence of drink etc involving the death of a “nearest and dearest”, the proper course will be to prosecute for careless driving and the appropriate drink/driving offence.

13.7 In cases of careless driving which caused the death of a “nearest and dearest” where there is evidence to suggest that the accused is a continuing danger to other road users, the proper course is to prosecute for careless driving (section 3).

13.8 However, in cases of careless driving that caused the death of a “nearest and dearest” where there is no evidence that the accused is a continuing danger to other road users, the proper course is not to prosecute.

13.9 Evidence that an accused presents a continuing danger to other road users may be found in his/her previous convictions or medical condition. In such cases, the court may wish to make an order under section 36 of the Road Traffic Offenders Act 1988, disqualifying the driver until he passes a driving test; or when it appears that the court ought to notify the Secretary of State that the driver may be suffering from any relevant disability within the meaning of section 22 Road Traffic Offenders Act 1988.

13.10 If a person other than a “nearest and dearest” is killed as a result of the dangerous driving, notwithstanding the fact that a near relative has also been killed, a charge for causing death by dangerous driving should normally follow. In order to present the case fully to the court a separate charge for the death of the close relative cannot, in these circumstances, be avoided.

14. Alternative Verdicts

14.1 In certain circumstances, it is possible for a jury to find the accused not guilty of the offence charged but guilty of some other alternative offence. The general provisions are contained in section 6(3) Criminal Law Act 1967 and are supplemented by other provisions which relating to specific offences.
14.2 Section 24 of the Road Traffic Offenders Act allows for the return of alternative verdicts where the allegations in the indictment amount to, or include, an allegation of an offence specified in the table set out in that section. The relevant statutory provisions are:

<table>
<thead>
<tr>
<th>Offence charged</th>
<th>Alternative verdicts</th>
</tr>
</thead>
</table>
| Section 1: death by dangerous driving | Section 2: dangerous driving  
Section 3: careless, and inconsiderate, driving |
| Section 2: dangerous driving | Section 3: careless, and inconsiderate, driving |
| Section 3A: causing death by careless driving while under the influence of drink or drugs | Section 3: careless, and inconsiderate, driving  
and/or the relevant offence from:  
Section 4(1): driving whilst unfit  
Section 5(1)(a): driving with excess alcohol  
Section 7(6): failing to provide a specimen |

14.3 Where the accused is charged with an offence under section 3A RTA 1988 he may not be convicted as an alternative with any offence of attempting to drive: section 24(2) Road Traffic Offenders Act 1988.

14.4 In the rare cases when manslaughter is charged, it will normally be prudent to prefer an alternative charge for causing death by dangerous driving if the driving took place on a road or other public place. Further, when manslaughter is charged there should be no difficulty in also charging as an alternative a Section 3A offence if it is made out, although such a situation is most unlikely to arise.

14.5 It is essential however, that the charge, which most suits the circumstances, is always preferred. It will never be appropriate to charge a more serious offence in order to obtain a conviction (whether by plea or verdict) to a lesser offence.
Appendix ‘G’ Work-related Deaths - A Protocol for Liaison between the HSE, CPS & ACPO

Introduction

This protocol has been agreed between the Health and Safety Executive (HSE), the Association of Chief Police Officers (ACPO) and the Crown Prosecution Service (CPS). It sets out principles for effective liaison between the HSE, police forces, and the CPS in relation to work-related deaths in England and Wales where HSE is the enforcing authority for Health and Safety legislation. In particular, it deals with incidents where evidence indicates that the crime of manslaughter or corporate manslaughter may have been committed.

The HSE, police and CPS have different roles and responsibilities in relation to a work-related death. The HSE is a statutory body responsible under section 18 of the Health and Safety at Work Act (HSWA) 1974 for making adequate arrangements for the enforcement of health and safety legislation with a view to securing the health, safety and welfare of workers and protecting others, principally the public. The HSE cannot investigate or prosecute for general offences such as manslaughter.

Police forces have the responsibility to investigate crimes in general and recommend prosecution of offenders to the CPS. The police will also have an interest in establishing the circumstances surrounding a work-related death in order to assist the coroner’s inquest.

The CPS will review the evidence and decide if there is a realistic prospect of conviction and if so, whether a prosecution in justified in the public interest.

The underlying principles of this protocol are as follows:

- An appropriate decision concerning prosecution will be based on a sound investigation of the circumstances surrounding work-related deaths.
- The police will conduct an investigation where there is an indication of manslaughter (or another serious general criminal offence).
- HSE will also investigate under the HSWA 1974 and pass information suggesting manslaughter on to the police or, where appropriate, the CPS.
- The decision to prosecute will be made by the CPS and HSE without undue delay and will take full account of the criteria set down in The Code for Crown Prosecutors. The HSE will also have regard to the principles of the Health and Safety Commissions Enforcement Policy Statement.
- The prosecution decision will be co-ordinated.
- Bereaved families and witnesses will be kept suitably informed.
- The HSE, police and CPS will establish effective mechanisms for liaison.
- This protocol is available to the public.
1. Initial Procedure

1.1 A police detective of supervisory rank should attend the scene of a work-related death, or where there is a strong likelihood of death arising out of or in connection with work and should:

a) make an initial assessment about whether the circumstances might justify a charge of manslaughter, or other serious criminal offence, in which case the police will commence their investigation (see clause 2.1)

b) where the Health and Safety Executive (HSE) is the enforcing authority (see Annex A) confirm whether the employer, or other responsible person (e.g. the person in control of the premises at which, the incident occurred) has notified the death or injury to the HSE by the quickest practicable means

c) liaise with the HSE inspector, or HSE duty officer if out of hours and either:

(i) inform the HSE of the police decision to investigate; or

(ii) where the initial assessment indicates that there will be no police investigation, discuss arrangements for preserving the scene and the nature of the assistance that the police are able to provide to the HSE investigation.

2. Investigation

Police investigation

2.1 As a general guide, the police will investigate where there is evidence or a suspicion of deliberate gross negligence or recklessness on the part of an individual or company rather than human error or carelessness.

2.2 The HSE will provide any agreed technical support to the police, and continue to investigate matters relating to possible offences under the Health and Safety at Work Act (HSWA) 1974. The HSE will not lay an information until the police and Crown Prosecution Service (CPS) have reached a prosecution decision.

2.3 The police and HSE will liaise and agree arrangements for keeping relatives informed, dealing with media enquires and making any public announcements.

HSE investigation

2.4 Where the police decide that a charge of manslaughter, or any other serious offence, cannot be justified the HSE will continue with its own investigation.

2.5 Where there is an HSE investigation the police will, upon request, provide agreed local support.

2.6 Where, during the HSE investigation, evidence indicates an offence of manslaughter may have been committed, HSE will refer the matter to the police
without delay. Where matters cannot be resolved after referral to the police, HSE Solicitor’s Office may refer the matter to the CPS.

2.7 Where there was an initial investigation by the police and the police indicate that they wish to retain an interest, the HSE shall notify police of the outcome of the enquiry and the nature of the charges preferred.

3. **Retention and disclosure of material obtained during the course of an investigation**

3.1 Where there is a police investigation, material obtained during the course of the enquiry should be shared subject to any statutory restriction placed on HSE by the HSWA 1974. Agreement should also be reached as to which organisation will assume responsibility for the retention of exhibits.

3.2 The retention and disclosure of material in relation to manslaughter, health and safety or other prosecutions brought by the CPS shall be in accordance with the guidelines produced by the CPS.

4. **Special enquiries**

4.1 In the case of some incidents, particularly those involving multiple fatalities, it may be appropriate for the investigations to be jointly managed. The Health and Safety Commission may also direct the HSE to investigate and produce a special report. Alternatively the commission may, with the consent of the secretary of state, direct that a public enquiry be held.

4.2 In accordance with this protocol the police will, upon request, provide the necessary support to the investigation. The police will also provide any material evidence requested by the person appointed to the commission to conduct the public enquiry, subject to the provisions of Health and Safety Inquiries (Procedure) Regulations 1975.

4.3 Reports relating to public inquiries and other major HSE investigations cannot generally be published until the conclusion of any criminal proceedings. In order that observations or recommendations about health and safety that are in the public interest can be disclosed and acted upon as soon as practicable, there should be no undue delay in taking the decision to prosecute and expediting proceedings thereafter.

5. **Advice prior to charge**

5.1 The police should seek the advice of the CPS prior to charge where consideration is given to charging an individual with manslaughter in a situation envisaged under the protocol and must consult CPS when consideration is being given to charging a company with corporate manslaughter.

6. **Decision to prosecute**

6.1 Any decision to prosecute following a work-related death should be co-ordinated and follow liaison between the police, the HSE, and CPS. There should be no
undue delay in reaching a decision. Once a decision is reached, the police should be advised.

6.2 Where the police do not propose to prefer charges, or the CPS decline to prosecute, the HSE should be advised of the decision as soon as possible in order that they may expedite proceedings for any related HSWA 1974 offence(s) subject to clause 8.2.

6.3 The prosecution decision should be made known to the accused and bereaved families prior to any public announcement through the arrangements agreed in clauses 2.3.

6.4 The announcement of any decision to the media by the CPS and/or HSE should be co-ordinated.

6.5 Where a decision by the CPS is not to prosecute for manslaughter and clause 8.2 applies, the announcement shall make it clear that the decision by HSE will follow the inquest.

7. **CPS prosecution**

7.1 Where the CPS prosecutes, but HSE indicate that they wish to retain an interest, the CPS should undertake to keep HSE advised as to the progress of the case and notify HSE of the result of any court proceedings.

7.2 Where the allegation concerns a work-related death, the HSE will disclose to the CPS a copy of any reports or document(s) submitted to the coroner. The report may not be disclosed to any party without the consent of the HSE.

7.3 The police or CPS will advise the coroner when a charge of manslaughter is preferred. The coroner may therefore adjourn the inquest until the conclusion of the criminal prosecution. The Director of Public Prosecutions (DPP) may also request that a Coroner adjourn the inquest where there are proceedings before the magistrates’ court for offences that are related to a death (section Coroners Act 1988).

8. **HSE prosecution**

8.1 Where the HSE prosecutes exclusively, following a decision to prosecute (see clause 6.1) there will in general be no need to advise the CPS of the progress of the case unless CPS has requested that they be so advised.

8.2 Where the police decide not to prefer charges or CPS has reviewed the papers and declined to prosecute for manslaughter:

a) in order not to prejudice any post-inquest review of the decision to prosecute for manslaughter, the HSE will await the result of the Coroner’s inquest before preferring charges under HSWA 1974 unless delay would prejudice the HSE case.
b) where the verdict of the Coroner’s court causes the CPS to review their initial decision not to prosecute, the HSE will seek to ensure that their case is not heard until a further review has completed by CPS.

9. **Joint prosecution**

9.1 Where the CPS and HSE seek to proceed for offences arising from the same incident a conference should be convened to discuss the management of the case with a view to initiating joint proceedings. In particular, the following issues should be discussed and agreed:

a) who will take lead responsibility for the proceedings

b) the wording and nature of charges

c) arrangements for the retention and disclosure of material

d) the timings of proceedings

e) arrangements for keeping bereaved families and witnesses informed

f) the announcement of the decision

g) arrangements for maintaining contact for the life of the prosecution and agreeing a mechanism for consultation should an issue arise which results in the prosecution being withdrawn or no further evidence offered

h) any other case management issues.

10. **National liaison**

10.1 The police, CPS and HSE shall form a national liaison committee which should meet at least once a year to review the operation of the protocol and consider the need for changes in arrangements.

11. **Local liaison**

11.1 The police, CPS, and HSE shall nominate identified local liaison officers. Those persons should meet on a regular basis to discuss implementation of this protocol at a local level and other issues of mutual interest and concern.

11.2 The liaison officers’ responsibilities will also include:

a) ensuring that there is an identified and accountable local line of effective communication between the three organisations

b) monitoring the effectiveness of the protocol

c) communicating any issues that may have implications for the protocol or issues of concern to the national liaison committee.
ANNEX A (clause 1.1(b))


Health and Safety Executive

Enforcement of the HSWA 1974 and related legislation is shared with local authorities who cover certain types of work activities. As a general guide, the Health and Safety Executive (HSE) is normally the enforcing authority for work activities and premises including:

- factories and other manufacturing, including motor vehicle repair
- chemical plants and refineries
- construction
- railways, tram and underground systems
- mines, quarries and landfill sites
- farms, agriculture and forestry
- hospitals, including nursing homes
- local government, including their offices and facilities run by them
- schools, colleges and universities
- domestic gas installation, maintenance or repair
- utilities, including power generation, water, and waste
- fairgrounds (travelling or fixed)
- airports (except terminal buildings, car parks an office buildings from April 1998)
- police and fire authorities; Crown, including Ministry of Defence
- docks
- nuclear installations
- offshore gas and oil installations and associated activities including pipe-lay barges, and diving support vessels
- onshore major hazards, including pipelines, gas transmission and distribution
- transport of dangerous substances by road and rail
- manufacture, transport handling and security of explosives.
Appendix ‘H’  Police Complaints Authority Manual of Guidance for Members

Initial Response/action

This guidance is relevant to death/serious injury in police custody, during road traffic incident, or firearms incident.

1.  Initial Action

1.1 Verify initial police action and response.
   a)  paramedics called to scene
   b)  immediate action to preserve scene, seal off area, close custody suite if necessary. Consider other scenes and appoint a loggist. Seize any video tapes of custody suite/scene of incident.
   c)  officers to be notified
       (i)  Area Commander
       (ii) Duty ACC/DCC
       (iii) Head of complaints & Discipline

1.2 Call out support personnel.
   a)  Complaints and Discipline Inspectors
   b)  SOCO – forensic examination, photographs and video
   c)  Home office pathologist

1.3 Ascertain extent of local enquiries to date.
   a)  Sudden Death report
   b)  Identification of body.

1.4 Notify coroner’s office and call out if necessary.

1.5 Notify PCA members by telephone; discuss attendance at PM.

1.6 Inform press officer, formulate early press release, monitor press coverage.

1.7 Appoint family liaison officer.

1.8 Seize custody record.

1.9 Ensure officers on duty in custody suite at incident complete PNBs.

1.10 Obtain list of prisoners detained throughout deceased’s detention/witnesses at scene.

1.11 Early interview of prisoners before release.
1.12 Consider need for support and counselling for police officers and any other witnesses.

1.13 Consider call out of forensic laboratory staff.

2. **Early notification**

2.1 Appraise designated PCA Member by telephone.

2.2 Consider outside force if appropriate.

2.3 Seek approval for Officer appointed.

2.4 Agree terms of reference.

2.5 Agree joint press release.

2.6 Section 71 Discretionary Referral to PCA within 48 hours. (Part 1 report Category A or B)

2.7 HMIC and Home office notification within 48 hours.

3. **Post Mortem**

3.1 Appraise pathologist of facts in the case.

3.2 Verify Post Mortem arrangements.

3.3 Time, date, venue.

3.4 Officers to attend, SOCO, Coroner’s officer, Investigation Officer and PCA Member, as appropriate.

3.5 Funeral Director Details.

3.6 Consider need for toxicology samples.

4. **Investigation procedures**

4.1 Think ‘Crime’, treat as suspicious death.

4.2 Think Discipline, Suspension, Reg 9’s, Duty reports, witness statements

4.3 Obtain written statements - consider taped interviews for key witnesses

- defer cognitive statement taking from these tapes for 24/36 hours, as per best practice.

4.4 Support from CID, TSG and other specialist departments.

4.5 Investigation of arrest/incident scene

   a) witnesses

   b) exhibits

   c) search by TSG
d) SOCO, photographs, video material
e) officer details
f) transportation
g) incident logs/tapes
h) resources allocated
i) house-to-house enquiries
j) site plans
k) video reconstructions.

4.6 Investigation at Police Station

a) examination of custody record
b) details of custody officers, gaolers, civilian detention officers
c) condition on arrival at police station
d) ground for detention
e) fitness for detention, medical examination, recommendations of Police Surgeon
f) drunkenness, rousing
g) notification of rights, persons notified, legal representation requested
h) security of deceased’s property
i) detention reviews
j) provision of blankets, mattresses
k) meals, drinks, cleanliness of cell and heating
l) visits by officers, solicitors, friends, family
m) taped interviews with deceased before death
n) previous custody records relating to deceased
o) photographs of deceased if charged
p) police actions immediately before and at time of death
q) local procedure, instructions, working practices
r) floor plans of detention suite
s) interview of prisoners released prior to time of death.
4.7 Investigation of event prior to incident leading to deathserious injury
   a) sightings of deceased
   b) witnesses including friends, social workers, other agency staff, relatives, employers, local shopkeepers
   c) alcohol and drug abuse or other behavioural patterns
   d) sequence of movements.

4.8 Investigation of Deceased’s History
   a) CIS/PNC
   b) medical, consent from family required
   c) personal, financial, marital, sexual, criminal
   d) Probation Office, Social Services
   e) spouse, mother, brother and other close relatives.

16. Road Traffic Incidents
1. The initial stages of a referral of a fatal road traffic incident (RTI) should follow substantially the same pattern as a death in custody referral, although attendance at the post mortem will generally be unnecessary unless there are suspicions about the cause of death, and the need to involve the local community may be less apparent.

2. The force should contact the member immediately (if they fail to do so within about 2 hours, remind them of the importance of an early call so that the member can decide whether it would be appropriate to attend the post mortem).

3. Use checklist (attached) to ensure you seek all the essential information needed at this stage.

4. Discuss with the caller (DCC or head of C & D generally) whether an external investigating officer (IO) would be appropriate. (See section 11)

5. Approve nomination of IO ensuring that she/he does not know the officers involved.

6. Visit the scene at an early stage if appropriate.

7. Check the family liaison arrangements and offer to meet the family.

8. If the deceased is from an ethnic minority, consider whether it is appropriate to notify a community leader.

9. Meet IO and plan investigation.

10. Agree terms of reference and ensure these are put on file in writing.
11. Agree issue of Regulation 9 notices, as appropriate.

12. Monitor progress of investigation in relation to “complaints or concerns” as listed on the relevant sheet.

13. At final report stage:
   a) recheck regulation 9s and ensure that all significant concerns and all complaints are covered
   b) ensure that any management issues have been covered
   c) ensure recommendations are included re force orders or training when appropriate.

**Fatal RTIs**

**Process**

Notification to PCA

TORs approved

IO Approved

Name

Traffic Specialist

Outside Force

Coroner: Name

Reg 9s Issued

Notified of PCA involvement

Media Interest?

PCA Press release – opening

PCA Press release – closing

Policy matters raised
FATAL RTIs CHECKLIST

File ref:

1. Name of deceased
   Next of kin – name ........................ Tel no. ........................................

2. Pursuit/999 response – Authorised/Unauthorised – (delete as appropriate)

3. Police car directly involved in accident – Yes/No

3a. If no, distance away at time of accident

4. Date time and place. Road conditions

6. Vehicle type(s) – full details

7. Seize master tapes Control Room/LA etc

8. Police Driver - Qualifications (date latest test) and level of driver training.
   - breath test
   - eyetest (if necessary)

9. blue lights marked car siren

10. Other driver(s) – full details

11. Post mortem report (s)

12. Vehicle examination

13. Medical reports – others involved

14. Full technical accident report/plans/video/photographs (including reporters qualifications), computerised reconstruction

15. Compliance ACPO Driving manual/pursuits(force policy/TPAC SOPs

16. Compliance with control instructions

17. Involvement of other police vehicles – Authorised/Unauthorised (e.g. caravanning)

18. Pursuit only – separation at moment of accident/leaving road?
References

Murder Investigation Manual

ACPO Crime Committee (2000)
MIRSAP Manual 2000

ACPO Roads Policing Committee
National Standard Motorway Manual

Paul Forman et al, TRL (2000)
Contributory and precipitating factors, highways liability

Metropolitan Police Service (1998)
Scene Management & Examination Course Manual

Police Complaints Authority
Manual of Guidance to Members

ACPO Roads Policing Committee
Protocol for Collision Investigation and Reconstruction within the Police Service.

HSE, CPS & ACPO
Work Related Deaths - A Protocol for Liaison between the HSE, CPS and ACPO

ACPO
Media Guidelines for Individuals under Police Investigation.

ACPO
Memorandum of Good Practice re Early Release of Bodies in Cases of Suspicious Death.

ACPO/CPS
Charging Standard.

ACPO Crime Committee
Revised guidelines for the use of policy files.

Peter Giles, Chambers Law (2000)
Offences and Offenders

J A Horne & L A Reyner
Arrive Alive. (European Sleep Research Society)
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Falling asleep at the wheel. (Sleep Research Laboratory, Loughborough University. TRL report 168)

G Maycock

Driver sleepiness as a factor in car and HGV accidents. (TRL report 169)

R J Tunbridge, M Keigan, F J James

Recognising drug use and drug related impairment in drivers at the roadside. (TRL report 464)