

PRACTICE ADVICE ON CORE INVESTIGATIVE DOCTRINE

2005

Produced on behalf of the
Association of Chief Police Officers
by the National Centre for Policing Excellence



CENTREX
HELPING TO DEVELOP POLICING

PRACTICE ADVICE ON CORE INVESTIGATIVE DOCTRINE

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PREFACE

The performance of the police in the area of investigation is continually under scrutiny by the government, the criminal justice system and the media. There is widespread recognition within the Police Service that there is a need to improve the professionalism of the investigative response.

The Professionalising the Investigation Programme (PIP) was introduced by ACPO Crime Business Area as a key initiative within the police reform agenda. The purpose is to significantly improve the personal, functional and organisational ability of the Service to investigate crime of any category. These aims will be achieved by providing training and work place assessment based on the Integrated Competency Framework and supported by this practice advice.

Core Investigative Doctrine provides definitive national guidance for all investigators as defined by PIP on the key principles of criminal investigation, irrespective of the nature or complexity of the investigation. It will assist the Service to meet the challenging targets set by the government, as outlined in the National Policing Plan, to increase the number of offenders brought to justice and to improve public confidence in the investigative process.

By drawing on the collective experience of police practitioners, stakeholders, academics and current literature, all the principles which underpin investigation have been compiled into a single definitive document for the Police Service. It outlines the legislative and structural changes which have altered the role of the investigator to that of the impartial gatherer of material which will be used by all parties within the criminal justice system.

In order to be effective, the investigator must develop the ability to make reliable and accountable decisions. This may often be under pressure or in difficult circumstances. There are many factors which affect an investigator's ability to make decisions. A number of measures, including the investigative mindset and investigative and evidential evaluation, are proposed in this document which will assist investigators in making accountable decisions and minimise the chance of errors.

This practice advice is a strategic overview of the investigative process, providing a framework for investigative good practice. Its purpose is to provide investigators with the skills and knowledge they require to conduct investigations in a competent manner, inspiring confidence in the investigator and the wider criminal justice system.

PART I

Section 1 – Introduction

Section 2 – Investigative Knowledge

Section 3 – The Legal Framework

Section 1

INTRODUCTION

An investigation is an effective search for material to bring an offender to justice. This doctrine focuses on the knowledge and skills required to conduct an effective investigation, and is structured in two parts to assist the reader. Part I includes the underlying principles and knowledge that support the process of investigation. Part II focuses on the process of investigation.

This section defines the purpose of a criminal investigation and the role of the investigator. It also demonstrates where investigation can link to other policing activities and the wider criminal justice system.

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1.1 OUTLINE

This doctrine has been developed by experienced police practitioners with the assistance of the Home Office, the Crown Prosecution Service (CPS) and academics. It provides definitive national guidance on the key principles of criminal investigation which are based on the collective experience of the Police Service and literature on the process of criminal investigation.

It applies to all levels of criminal investigation including both the reactive and proactive methods of investigation. It also supports the Professionalising Investigation Programme (PIP) and provides an outline of the skills required by investigators at levels 1 to 3.

The Professionalising Investigation Programme (PIP) 'is an ACPO Crime Business Area lead project commissioned by the Home Office. Working in partnership with the National Centre for Policing Excellence (NCPE) and the Police Skills and Standards Organisation (PSSO) (now known as Skills for Justice) the project seeks to examine, develop and make recommendations to professionalise investigation.'

ACPO Professionalising Investigation (2003)

The PIP programme identifies 4 levels of investigators. This doctrine is aimed at levels 1 to 3 as defined in the NCPE PIP Implementation Programme Plan (2004).

Investigative Level	Example of Role	Typical Investigative Activity
Level 1	Patrol Constable/ Police Staff/Supervisors	Investigation of Volume Crime
Level 2	Dedicated Investigator eg CID Officer	Substantive investigation into more serious and problem offences including road traffic deaths
Specialist Investigative Roles	Child Protection, Family Liaison, Major Crime	Child Protection, Special Branch, Family Liaison, Force Intelligence Bureau
Level 3	Senior Investigating Officer (SIO)	Lead investigator in cases of murder, stranger rape, kidnap or crimes of complexity, Category A, B-C

1.2 CRIMINAL INVESTIGATION

The Criminal Procedure and Investigations Act 1996 (CPIA) Code of Practice under Part II of the Act defines a criminal investigation as:

‘An investigation conducted by police officers with a view to it being ascertained whether a person should be charged with an offence, or whether a person charged with an offence is guilty of it. This will include:

- Investigations into crimes that have been committed;
- Investigations whose purpose is to ascertain whether a crime has been committed, with a view to the possible institution of criminal proceedings; and
- Investigations which begin in the belief that a crime may be committed, for example when the police keep premises or individuals under observation for a period of time, with a view to the possible institution of criminal proceedings;
- Charging a person with an offence includes prosecution by way of summons.’

While the definition refers specifically to criminal investigations, the principles set out in this document will apply equally to other types of investigations, eg, road traffic matters, anti-social behaviour, professional standards enquiries or investigations conducted on behalf of Her Majesty’s Coroner.

1.3 DEVELOPMENTS IN CRIMINAL INVESTIGATION

In 1829 the ‘New Police’ (Maguire, 2003) was established with the purpose of maintaining public order, providing street patrols and preventing crime. It was not until 1842 that the Metropolitan Police formed a small detective branch and adopted an investigative approach to crime. This change of emphasis was seen as a radical departure from the traditional role of the patrolling constable. The detection of crime prior to this had mainly been conducted by ‘thief-takers’ whose methods were frequently crude and financially motivated. The new branch provided a more disciplined approach and by 1878 a Criminal Investigation Department (CID) served the whole of London. This system quickly became established as an effective tool in crime control and within a short period each force had formed its own CID.

During the twentieth century, two separate and distinct methods of investigation developed within the Police Service. Generalist CID and uniformed officers employed a reactive method of investigation which was intended to respond to reported crime. In addition, specialist squads, ie, serious crime squads and drug squads, were set up to deal with organised or invisible crime. This used proactive methods of investigation which were largely intelligence led. Occasionally major crimes such as homicide or serious sexual assaults required a greater concentration of resources than those available locally, resulting in ad hoc major enquiry teams being brought together. Again, these generally used a reactive method of investigation, but employed proactive methods when the circumstances called for them. In broad terms the two methods of investigation are similar. They are discussed further in [4.3 The Methods of Criminal Investigation](#).

Crimes occur under many different circumstances, and the behaviour of key players such as victims and offenders cannot always be predicted. For these reasons individual investigations will vary considerably. As offenders become more sophisticated, so investigators develop their skills. Today the Police Service has at its disposal a wide range of technical and scientific expertise to assist in the investigation of crime, but it is still incumbent on investigators to approach all investigations in a structured and methodical manner as outlined in this doctrine.

Through increased media coverage of crime and criminal behaviour, and because of the effect that crime can have on individuals and the local community, the process of criminal investigation has attracted considerable attention. In addition there has been an increasing drive throughout the public sector to improve accountability, efficiency and effectiveness.

Two Royal Commission Inquiries in the eighties, followed by an Audit Commission Report in 1994 identified a number of shortcomings in police investigation. These criticisms included:

- Lack of transparency and accountability;
- Ineffectiveness in 'catching' criminals;
- Miscarriages of justice;
- Abuse of power, corruption and perversion of criminal justice;
- Erosion of civil liberties and breaches of human rights.

Handbook of Policing (2003)

These findings led to a perception that public confidence in the competence and integrity of the Police Service had declined. The response to this was the introduction of legislation such as the Police and Criminal Evidence Act 1984 (PACE), Criminal Procedure and Investigations Act 1996 (CPIA), and the Regulation of Investigatory Powers Act 2000 (RIPA). These changes now provide some statutory regulation to the conduct of investigations.

1.4 THE ROLE OF THE INVESTIGATOR

The CPIA Code of Practice under Part II of the Act clearly defines who an investigator is and what their role is within an investigation.

'An investigator is any police officer involved in the conduct of a criminal investigation. All investigators have a responsibility for carrying out the duties imposed on them under this code, including in particular recording information, and retaining records of information and other material.'

The term investigator is, however, not solely applicable to police officers. Investigations can be conducted by persons other than police officers with investigative duties, eg, Serious Fraud Office (SFO), Independent Police Complaints Commission (IPCC), Department for Trade and Industry (DTI) or the Department for Transport (DfT).

1.5 THE FORENSIC INVESTIGATOR

The introduction of the legislation outlined in [1.3 Developments in Criminal Investigation](#) has led to significant changes in the way investigations are carried out.

Traditionally the police had an adversarial role within the criminal justice system. They were responsible for recording and investigating criminal offences, identifying the offender, determining the charges to be brought and presenting the case in court.

The introduction of the Crown Prosecution Service (CPS) in 1985, removed the police's authority to act as prosecutor, and more recently the Criminal Justice Act 2003 (Charging Standards) has placed responsibility on the CPS to determine the charges which can be brought against an offender (in all but exceptional circumstances) see [3.6.3 Charging Standards](#).

The introduction of PACE in 1984 regulated the actions of the investigator and made provision to safeguard offenders' rights and to improve the quality of material available to courts. The CPIA has now made the methods of investigation accountable to the criminal justice system. It requires investigators to capture all available material of value to the prosecution **or** the defence, and preserve it for possible disclosure. Investigators have a duty to record, retain and reveal material that is relevant to the criminal investigation. RIPA has further expanded the obligation on investigators to justify and account for their actions. As a result of these changes, the investigator's role has become more inquisitorial than adversarial.

The similarity between the roles of the investigator and the forensic scientist can be described as follows:

‘Traditionally forensic evidence has always relied upon proving continuity to rebut any possible argument or contamination or interference. In a very real way this regime is now an imperative for all evidence... The real test for policing will be our ability to provide investigators of such credibility that they resemble in every respect the best forensic scientists.’

Sir David Phillips in Ede and Shepherd (2000)

1.6 THE BENEFITS OF INVESTIGATION

Although investigation forms a large part of the core business function of the Police Service, it should not be considered in isolation from other policing activity.

The National Policing Plan (NPP) outlines five key priorities for the Police Service working in conjunction with their local communities. (This plan is guided by the National Intelligence Model (NIM) strategic assessments.) The priorities are designed to reduce crime and the fear of crime by bringing offenders to justice and inspiring confidence in the police and criminal justice system. At a local level, forces and authorities are required to produce local policing plans which reflect the objectives of the NPP.

The NIM is a business process which drives policing in the United Kingdom. It requires the input of accurate and timely information into force intelligence systems, much of which is generated by investigations. Conducting effective investigations will not only provide information for the NIM, but is also one of the key activities influencing the delivery of the NPP objectives. The analysis of information fed into the NIM will assist in identifying crime patterns and trends, crime hot spots and series links. This information can then be used to brief and deploy patrols and identify intelligence-led initiatives designed to reassure communities and reduce offending and anti-social behaviour.

Investigations inevitably require direct contact between a member of the public and the investigator. The point of contact and effectiveness of investigators will have a substantial impact on the quality of material provided by victims and witnesses. It will also encourage their cooperation and help their understanding of the criminal justice process.

Where individuals have been the victim of crime or witnessed a traumatic event, they expect the Police Service to provide security, support and reassurance, in addition to an effective investigation. By building this relationship the investigator is able to keep victims and witnesses informed, and impart valuable information about the variety of resources available, eg, Victim Support, crime reduction advice and reparation schemes. In serious or traumatic investigations it may be necessary to establish a rapport through a third party in order to preserve the investigator's objectivity, and to avoid them becoming an advocate of the victim or their family. Third parties may include a family liaison officer (FLO), sexual offence liaison officer (SOLO), local authority or charitable victim support scheme.

Every investigation provides the individual investigator and the Police Service with a unique opportunity to recognise and understand the impact of crime and criminality upon the community. This knowledge can be used in a variety of ways, eg, to guide preventative policing patrols, to promote and disseminate crime prevention advice and to provide reassurance to specific vulnerable individuals, groups or locations within communities.

Investigators engaged with suspects also have an opportunity to obtain material relating to crime and criminality in the local and wider community which can be used to improve personal and organisational knowledge through the provision of intelligence. This will assist in reducing crime and the fear of crime in the community, and will encourage positive intervention with offenders to prevent or reduce recidivism.

1.7 THE PURPOSE OF CORE INVESTIGATIVE DOCTRINE

This doctrine gives definitive national guidance on the key principles of criminal investigation. This will provide:

- A conceptual framework for all subsequent doctrine developed for the Police Service;
- A way of promoting good practice amongst practitioners;
- A research agenda, by identifying investigative areas where little or no definitive guidance currently exists;
- A way of identifying the skills and knowledge required by practitioners which are reflected in the National Occupational Standards (NOS) and PIP.

The doctrine provides a high level overview of the process of criminal investigation. Crimes, however, vary in terms of the motivation of those committing them, the response of victims and witnesses and the amount of material that is available for investigators to collect. A great deal of guidance has been produced by ACPO and the Home Office to assist investigators in specific cases, and this is referred to where relevant in the text. Irrespective of the differences between cases the application of the principles of this doctrine will enable investigators to make logical, structured and accountable decisions, despite the circumstances in which those decisions are made.

Section 2

INVESTIGATIVE KNOWLEDGE

This section outlines the knowledge that investigators require in order to conduct a competent criminal investigation. Investigative knowledge enables investigators to determine if a given set of circumstances amounts to a criminal offence, to identify the types of material that may have been generated during the commission of an offence and where this material may be found. It also ensures that investigations are carried out in a manner which complies with the rules of evidence, thereby increasing the likelihood that the material gathered will be admitted as evidence.

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2.1 KNOWLEDGE REQUIRED BY INVESTIGATORS

Knowledge assists investigators to make effective and accountable decisions during an investigation. It enables them to locate, gather and use the maximum amount of material generated by the commission of an offence to identify and bring offenders to justice. There are four areas of investigative knowledge required to conduct an effective investigation, these are:

- The Legal Framework;
- Characteristics of Crime;
- National and Local Force Polices;
- Investigative Skills.

2.2 THE LEGAL FRAMEWORK

All investigators must have a current and in-depth knowledge of criminal law and the legislation which regulates the process of investigation. For those investigators working at PIP level 1, see [1.1 Outline](#), opportunities to locate and gather material will frequently occur while they are carrying out routine policing activities such as responding to incidents or interviewing victims and witnesses. To make full use of these opportunities, investigators, without access to legal textbooks or other sources of advice, must make on-the-spot decisions as to which is the most appropriate course of action to take. For these reasons it is essential that all investigators including those at PIP level 1 should understand the following:

- Legal definitions of offences likely to be encountered;
- Points that have to be proven;
- Potential defences available from statute and case law;
- Powers that support and regulate the investigation process;
- Relevant rules of evidence.

Without this knowledge investigators could take action that is unlawful, or gather material in such a way as to make it unlikely that it will be accepted as evidence in court. For further details of the legal framework for criminal investigations, see [3 The Legal Framework](#).

Those carrying out investigations at PIP levels 2 and 3, and those in specialist investigation units should already have a thorough knowledge of criminal law. Their roles may also require them to provide advice and support to PIP level 1 investigators. PIP level 2 and 3 investigators are likely to be carrying their own caseload of investigations, commonly involving serious or major crimes. These types of crime are often committed by experienced offenders who may try to prevent material being gathered. Maintaining a current knowledge of criminal law will assist investigators to deploy the full range of investigative techniques that can help to overcome this and ensure that investigations are able to withstand the high level of scrutiny applied to them by the criminal justice system.

Legal knowledge developed over time enables investigators to anticipate the types of defence that may be put forward by a suspect. This anticipation allows investigators to gather additional material which will enable courts to test the validity of the defence. A common feature of serious and major crime enquiries is the high volume of material that they generate and the complex chains of evidence which result. To successfully manage this material, investigators require an in-depth working knowledge of the criminal law and in particular the CPIA.

Investigators acquire legal knowledge through formal training courses and from experience of conducting investigations. Formal training courses include the Initial Police Learning and Development Programme (IPLDP) or the Initial Crime Investigators Development Programme (ICIDP). The legal framework within which investigators work changes frequently and they should, therefore, ensure that they maintain a current knowledge of the law, including new legislation and amendments to existing law.

Sources of legal knowledge available to investigators include:

- Home Office Circulars;
- Force orders;
- The media;
- Legal digests;
- HMSO website (legislation/statutory instruments);
- Police journals;
- Force crime training departments;
- Conferences and seminars;
- Daily or extended Briefings;
- Legal databases (Police National Legal Database (PNLD) and Lawtel).

See also [Appendix 2](#).

2.2.1 ETHICS

Investigators have access to a range of legal powers that enable them to conduct effective investigations. Under certain conditions these powers allow investigators to deprive individuals of their liberty, to use reasonable physical force, to enter their homes or other private premises, to gain access to private information and to deploy intrusive surveillance techniques. They also have a high level of discretion in how they choose to use these powers.

These legal powers and the discretion with which they can be used places a responsibility on investigators to use both of them ethically.

The *Police Service Statement of Common Purpose* provides basic ethical principles which should guide investigators:

'The purpose of the Police Service is:

- To uphold the law fairly and firmly;
- To prevent crime;
- To pursue and bring to justice those who break the law;
- To keep the Queen's Peace;
- To protect, help and reassure the community;
- To be seen to do this with integrity, common sense and sound judgement.'

Some police forces, eg, the Police Service of Northern Ireland (PSNI) have developed a Code of Ethics which lays down the standards of behaviour expected of officers. It also provides an ethical framework within which decisions and actions should be taken. Investigators should be familiar with the ethical framework adopted by their particular police force or agency.

In addition to these sources of ethical guidance, there are a number of principles which are widely accepted within the Police Service. These principles are underpinned by the recognition that policing works best where it has the support and cooperation of the community. The Police Service enjoys a high level of support but this can be undermined in specific instances and among specific communities if they lose confidence in either the effectiveness of the police or the way in which police powers are exercised. The following principles are designed to ensure that investigations are conducted in ways which are ethical and encourage community support:

- When a crime is reported, or it is suspected that one may have been committed, investigators should conduct an effective investigation;
- The exercise of legal powers should not be oppressive and should be proportionate to the crime under investigation;

- As far as operationally practical and having due regard to an individual's right to confidentiality, investigations should be carried out as transparently as possible, in particular, victims, witnesses and suspects should be kept updated with developments in the case;
- Investigators should take all reasonable steps to understand the particular needs of individuals including their culture, religious beliefs, ethnic origin, sexuality, disability or lifestyle, see 3.11 Race Relations (Amendment) Act 2000;
- Investigators should have particular regard for vulnerable adults and children;
- Investigators should respect the professional ethics of others. This is particularly important when working with those whose role it is to support suspects.

Conducting ethical investigations will ensure that individuals and communities have confidence in the effectiveness of the Police Service and the fairness of the processes and techniques they use. This will make it more likely that victims and witnesses will provide investigators with material and that they will cooperate in the prosecution of offenders. Winning the broad support of communities also helps to cultivate sources of intelligence for the future.

Investigators should remember that offenders are members of communities and can influence others about the police. They may also themselves become victims and witnesses. If they believe that they have been treated ethically during an investigation they are less likely to form and communicate a negative view of the police to others. They are also more likely to cooperate with investigations in the future, whether as a victim, witness or suspect.

2.3 THE CHARACTERISTICS OF CRIME

Crime can be placed into three broad categories: property crime, crimes against the person and crimes against society (sometimes known as victimless crimes). An examination of the types of crime in each category shows that they vary widely in terms of the behaviours involved, the types of victims, the motives of offenders, the methods used to commit the crime and the degree of planning involved. The differences between crimes are significant for investigators because the circumstances in which crimes are committed determine the volume and distribution of the material available for them to gather. For example, although shoplifting and commercial fraud are both property crimes, they generate quite different types of material due to the different ways in which these offences are committed.

The wide range of criminal behaviour, the circumstances in which it can occur and the numerous ways in which victims, witnesses and offenders are likely to behave, means that investigators can be faced with numerous sources which may produce material. Making appropriate decision in these circumstances requires knowledge of some of the factors involved. These factors include the modus operandi (MO) of offenders and the characteristics of victims, witnesses or offenders.

2.3.1 MODUS OPERANDI (MO)

A detailed knowledge of the MOs employed by offenders within their policing areas will enable investigators to:

- Understand how a particular crime has been committed, the type of material that may have been generated in the commission of the offence and how or where this material might be recovered;
- Identify linked series of crimes committed with the same MO. (Pooling material from a linked series of crimes is often a highly effective way of progressing an investigation);
- Identify links between crimes and known offenders who use the same MO;
- Predict future offending patterns which may enable preventive or protective measures to be taken;
- Predict future offending patterns which may enable offenders to be caught red-handed;
- Identify likely disposal routes and markets for stolen or illicit property, eg, drugs.

2.3.2 CHARACTERISTICS OF VICTIMS, WITNESSES AND OFFENDERS

Investigators must understand the ways in which victims, witnesses and offenders are likely to respond when a crime is committed and how best to obtain material from them. This will require knowledge of:

- The range of communities in their local area, (community includes occupational groups, social groups and others who may meet only infrequently due to a shared interest or a shared use of an area or facility);
- The language, cultural and/or social needs of victims, witnesses and offenders which may be relevant when investigating crime;
- Persistent and problematic offenders within the area and their networks of associates who may also be involved in their criminal behaviour, eg, the disposal of stolen goods;
- Potential intelligence sources, both overt and covert, eg, Homewatch, and Covert Human Intelligence Sources (CHIS), that are available within a community and which are capable of providing material which may assist in an investigation.

Investigators can develop knowledge of MOs and the characteristics of victims, witnesses or offenders from reading the literature on criminal investigation (see [Appendix 2](#)) and by studying national and local intelligence briefings and examining individual intelligence and crime reports.

Sources on the characteristics of crime available to investigators include:

- Colleagues and supervisors;
- Experts (eg, Crime Scene Investigators (CSI), fingerprint experts, forensic scientists, forensic psychologists, Police Search Advisors (PoSA));
- Crime and criminal Intelligence databases (local, force, national);
- Other databases (eg, Genesis, SCAS);
- The local and national media;
- Police journals;
- Home Office Research, Development and Statistics Directorate (RDS) documents;
- Seminars;
- Briefings;
- Internal reviews;
- The National Police Library, Bramshill.

2.4 NATIONAL AND LOCAL FORCE POLICIES

The Police Service is a complex organisation with a wide strategic remit. In order to manage the range of tasks it is required to perform, the Police Service and its partners develop policies at both a national and local level.

The reasons for producing policy include:

- Ensuring compliance with the law;
- Procedural good practice;
- Improving customer service;
- Resource management;
- Managing inter-agency cooperation.

Many of these policies have a direct bearing on the conduct of investigations and investigators should have knowledge of those that are relevant to the type of investigations they are involved in. Such knowledge enables investigators to comply with legislation, follow procedural good practice and gain access to the most appropriate resources or level of inter-agency cooperation required to successfully conclude an investigation. They will also be better equipped to meet the needs of individual victims and the wider community.

At a national level, policy is developed by the Home Office and the Association of Chief Police Officers of England and Wales (ACPO). The policies produced are usually mandatory, but in some cases they will be subject to local variation. Local variation arises because of the differences between force structures, their configuration of resources and the individual needs of their local communities. Local policy may be developed at the force or Basic Command Unit (BCU) level and may be subject to more frequent change than national policy as a consequence of local changes in the policing environment.

The application of national and local policy will vary considerably between forces and, therefore, investigators should refer to their local force for further specific guidance in this area.

Examples of national policy include:

- The National Intelligence Model (NIM);
- ACPO Investigative Interviewing Strategy;
- The NCPE Code of Practice on the use of Firearms and Less Lethal Weapons.

Local force policies are publicised in a number of formats which include:

- Force orders;
- Electronic or verbal briefings;
- Force intranet systems;
- Force newspapers.

2.5 INVESTIGATIVE PRINCIPLES

The areas of knowledge outlined in this section are essential for every investigator. However, investigators will be ill-equipped to locate, gather and use the material generated in the commission of a crime to bring an offender to justice, without a thorough knowledge of key investigative principles set out in sections 4 to 7 of this doctrine.

The principles an investigator must have in order to conduct an effective investigation include:

- An overview of the investigative process and planning required to conduct an investigation;
- Decision making and how it can be improved by application of the investigative mindset;
- Investigative and evidential evaluation can assist the investigator to determine the value of material gathered during the investigation;
- Core investigative strategies common to most investigations including victim and witness, suspect and scene strategies;
- Management issues common to all investigations.

Investigations should be conducted with integrity, commonsense and sound judgement. Actions taken during an investigation should be proportionate to the crime under investigation and take account of local cultural and social sensitivities. The success of an investigation relies on the goodwill and cooperation of victims, witnesses and the community. Heavy-handed, discriminatory or disproportionate actions risk losing that cooperation. Effective investigators should maintain a balance between conducting an objective investigation and maintaining an approach which recognises the concerns of all the parties involved.

Where routine investigative actions have failed to gather sufficient material, investigators should explore alternative methods. Creative thinking may be required to determine the most appropriate type of action that will progress an investigation, but this does not mean that the high legal standards and integrity expected of investigators will be compromised. Investigators should be open to the ideas and experiences of others. Colleagues and supervisors are a readily available source of investigative information and investigators should consult them when trying to identify the most appropriate action to take in any given case. Most forces have various specialist investigation units, such as intelligence or covert policing teams, which are a valuable source of information about specific types of investigation techniques.

Creative thinking requires the investigator to look at the problem in another way, to question any assumptions that may have been made and to query the validity of all information. Investigators must continually question whether there may be another possible explanation for the material gathered.

It is becoming increasingly common to use technology to investigate crime. Although investigators cannot be expected to know the detail of scientific principles underlying technology such as DNA testing, behavioural profiling and fingerprinting, they should be familiar with the ways in which these techniques can contribute to the material that is gathered during an investigation. This knowledge can be acquired through formal courses and by questioning the experts that they work with, eg, Crime Scene Investigators (CSIs) or Forensic Medical Examiners (FMEs).

Investigators should never hesitate to question what they are told by experts. If an investigator does not understand the material or how it might be interpreted then it is highly likely that others will have the same difficulty. It is part of the investigator's role to anticipate this and to find explanations that can be easily understood by everyone. If an investigator has any reason to doubt the validity of material supplied by experts, he or she should ask for guidance from supervisors or the crown prosecutor on the appropriate course of action to take.

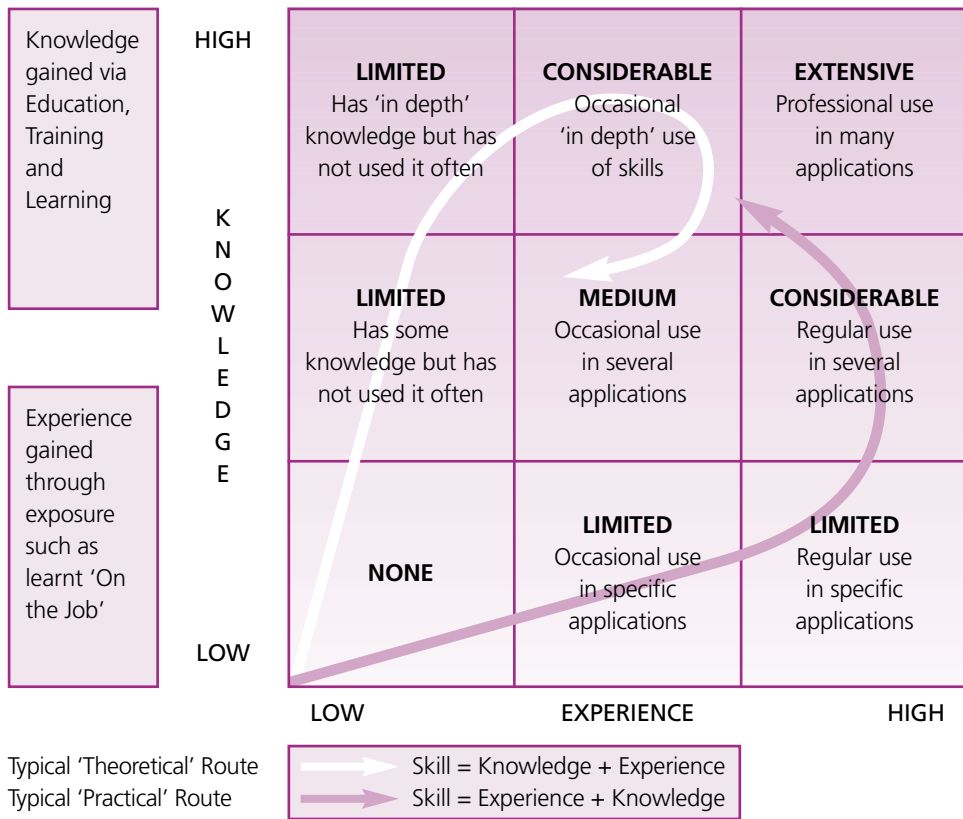
The NCPE Operations Helpdesk holds a database of experts who may be able to provide guidance and assistance in an investigation. See [Appendix 3](#) for contact details for the NCPE Operations Helpdesk.

2.6 DEVELOPING KNOWLEDGE

Although investigators can acquire knowledge from formal training courses and the literature that exists on criminal investigation, they also need practical experience of investigations to underpin this knowledge. However, investigators should never rely on experience alone. This is because experience is unique to the individual, people learn at different speeds and each will learn something different from the process. There may also be a lack of exposure to certain types of crime and criminality so that investigators will not be experienced in some areas. Moreover, while every investigation provides a new opportunity to increase the individual's investigative experience, it is a time consuming way of building up knowledge.

Ideally investigators should have a combination of formal training and experience. In practice, however, the balance between the two will vary between individual investigators because of differing opportunities to attend formal training courses, their access to the literature and the experience that they are able to acquire. The relationship between taught knowledge and experience is demonstrated by [Figure 1 The Relationship between Knowledge and Experience, Stewart \(1998\)](#).

FIGURE 1 The Relationship between Knowledge and Experience



Stewart (1998)

It is likely that new entrants will start their police careers with little or no knowledge or experience of criminal investigation. By attending courses and gaining practical experience, their knowledge will develop further. The Personal Development Review (PDR) system provides individuals and the organisation with the facility to identify areas for future development. Those with limited experience of investigations should be encouraged to accompany experienced colleagues on current investigations, or to consider alternative developmental methods such as secondment or mentoring.

Investigators will acquire knowledge from a number of different sources and in different ways. *Torrington and Hall (1995)* found that in order to be an effective investigator, the individual must be interested in investigation and acquire a habit of gathering knowledge. They must also have the desire and the skills to learn. If the investigator is not interested or motivated, they will not understand the principles of investigation and, significantly, they will not understand how to link theory to practical application during an investigation.

2.7 SUMMARY

Investigators should be encouraged to identify and share good practice with colleagues both at local force level and nationally. It is only by doing this that the Police Service as a whole can learn from the collective experience of its investigators.

The National Centre for Policing Excellence (NCPE) acts as a central point of contact for the service to capture and promote emerging good practice. For contact details see [Appendix 3](#).

Section 3

THE LEGAL FRAMEWORK

This section gives an outline of the legal framework within which all investigations, from the simple to the complex, should be grounded.

Its purpose is to provide a brief overview of certain overarching Acts and how they link to investigations. It also explains other important legal issues such as the Public Interest test and emphasises the necessity of gathering credible, reliable, relevant, and ultimately admissible evidence.

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3.1 EVIDENCE

In terms of the law of evidence, all evidence which is sufficiently relevant to the facts in issue is admissible, subject to the exclusionary rules. Consequently all evidence that is irrelevant should be excluded. The test of relevance is:

‘...evidence which makes the matter which requires proof more or less probable.’

Lord Simon of Glaisdale in *DPP v Kilbourne* [1973] AC 729, at p 756

The ‘facts in issue’ are those facts which the prosecution must prove in order to establish the guilt of a defendant. The standard of proof in the criminal courts is proof beyond reasonable doubt.

‘The possibility of guilt is not enough, suspicion is not enough, probability is not enough, likelihood is not. A criminal matter is not a question of balancing probabilities and deciding in favour of probability. If the accusation is not proved beyond reasonable doubt against the man in the dock, then by law he is entitled to be acquitted, because that is the way our rules work. It is no concession to give him the benefit of the doubt. He is entitled by law to a verdict of not guilty.’

Geoffrey Lawrence QC in argument during a murder trial.

Blackstone’s Police Manual, v2 (2005) p133

The court will decide on the admissibility of the evidence, but generally evidence will be ruled inadmissible if:

- It is hearsay and does not fall within the categories specified in section 114 Criminal Justice Act 2003 which permit the admission of such evidence;
- It is the opinion of a non expert;
- It is withheld as a matter of public policy;
- The witness is incompetent to give such evidence on the basis that they do not understand the questions put and are unable to give understandable answers (section 53 – Youth Justice and Criminal Evidence Act 1999);
- It is a confession which does not meet the admissibility requirements of section 76 PACE;
- The evidence falls within the provisions of section 78 PACE.

Section 78 PACE Exclusion of Unfair Evidence

Section 78(1) In any proceedings the court may refuse to allow evidence on which the prosecution proposes to rely to be given if it appears to the court that, having regard to all the circumstances, including the circumstances in which the evidence was obtained, the admission of the evidence would have such an adverse effect on the fairness of the proceedings that the court ought not to admit it.

Section 78(2) Nothing in this section shall prejudice any rule of law requiring a court to exclude evidence.

Section 78(3) This section shall not apply in the case of proceedings before a magistrates’ court inquiring into an offence as examining justices.

Evidence of Bad Character

Previously evidence of bad character fell within the category of inadmissible evidence, however, this has been changed by the Criminal Justice Act 2003 (CJA). For further information on bad character see 6.11.10 *Suspect Interviews* and *ACPO Practice Advice on Evidence of Bad Character*.

The CJA represents a marked overhaul of the criminal justice system and is the response to widespread calls for reforms to modernise and rebalance the system in favour of victims and witnesses, as well as to restore public confidence. For other significant amendments brought about by this Act, see [3.6.3 Charging Standards](#) and [3.7 Criminal Procedure and Investigation Act 1996](#).

3.2 BEST EVIDENCE

Best evidence derives from a 1745 judgment where the court held that it is the 'best [evidence] that the nature of the case will admit' (*Omychund v Barker*). It has come to mean primary evidence or 'first hand evidence' (eye witnesses or the original document).

Secondary evidence will be admitted, however, under certain conditions. In the decision of *Garton v Hunter* (1969), Lord Denning stated:

'Nowadays we do not confine ourselves to the best evidence. We admit all relevant evidence. The goodness or badness of it goes only to weight and not to admissibility.'

The jury will be advised to attach more weight to the evidence of primary sources and this is accordingly the best evidence and that which the investigator should strive to find. It is the duty of an investigator to look for all relevant information and to place before the court all best evidence uncovered, irrespective of which side it supports.

Historically courts assumed that best evidence is the recollection of what the witness saw or heard. As a trial may be many months after the event it is questionable if this is still the best evidence. Technological advances mean that best evidence may now be one or other kind of recording of what might have been seen or heard. Evidence captured in this way can have considerable advantages in respect of suspect interviews, significant witnesses and others. For further information see [6.5 Victim and Witness Strategy](#) and the *ACPO Investigative Interviewing Guidance*.

An investigator should strive to 'set the scene' for the court and jury. Accordingly, any relevant evidence about the circumstances surrounding the commission of the crime should be sought as it can usually be presented to court.

3.2.1 CIRCUMSTANTIAL EVIDENCE

This evidence can be defined as evidence of the circumstances surrounding the offence or event from which a fact in issue may be inferred. This form of evidence is especially relevant in situations when crimes are committed and there are no witnesses present. A few common examples of situations when circumstantial evidence would be relevant are:

- Where a person is found in possession of recently stolen goods and offers no explanation or offers one that is deemed to be false, then the jury may infer that he or she stole or dishonestly handled the goods, depending on the circumstances;
- When fingerprints are found at the scene of a crime, in the absence of an innocent explanation to account for the prints, the jury can infer the identity of the offender;
- When inferences from silence are sought in terms of the Criminal Justice and Public Order Act 1994.

There is a perception that this evidence is weaker than direct evidence, however, the statement of Lord Hewart CJ in the decision of *Taylor, Weaver and Donovan* (1928) 21 Cr App R20 should be remembered: 'It is no derogation of evidence to say that it is circumstantial.'

3.3 THE ADVERSARIAL SYSTEM

Continental systems of justice are usually termed inquisitorial. The court operates as a tribunal investigating the circumstances of the crime and strives to find the truth. All parties connected with the investigation are examined, the evidence and its evaluation are accumulated in an open file, and eventually a determination is made by the court.

The 'adversarial' system is different in concept. The court sits in independent arbitration between the prosecution and the defence. The prosecution makes an allegation and brings evidence to support their case. The defence are only obliged to respond once a prima facie case has been made, and can argue at any stage that the prosecution have not made out a sufficient case against them. The court acts as an umpire requiring both sides to observe the rules of the contest. In only very limited circumstances can it call evidence of its own volition. In most cases the court is assisted by jurors whose job it is to assess the evidence presented to them and then determine guilt or innocence. If the jury find the prosecution has proved its case, the court will determine sentence.

While discovery of the truth is hopefully a by-product of a trial, it is not its central purpose. The central purpose is to establish whether, within the rules, the prosecution can prove their case beyond reasonable doubt.

Protagonists for the adversarial system argue that the testing of witnesses by skilled advocates in cross-examination is on balance the best way to provide a jury with convincing grounds for their determination. They believe that the process of adversarial advocacy in the hands of skilled professionals is the best and fairest way of testing the real worth of evidence. In *Mechanical and General Inventions Co Ltd v Austin* (1935), 359 – 360 the House of Lords stated:

'Cross-examination is a powerful and valuable weapon for the purpose of testing the veracity of a witness and the accuracy and completeness of his story.'

There has been much concern, for example in rape cases, that victims and witnesses are unfairly disadvantaged in this process. It has been argued that, vigorous cross-examination of witnesses, often without access to any original notes, many months after the event, perhaps distressed and almost certainly in a state of apprehension by virtue of the process, is not the fairest way to obtain evidence. For these reasons there has been a general easing of conditions in favour of witnesses as follows:

- 'Special measures' can be used for vulnerable and intimidated witnesses, see [3.9 Youth Justice and Criminal Evidence Act 1999](#);
- Prior to going into the witness box witnesses may refresh their memory from a statement or note made at a time reasonably close to the events in issue;
- Section 139 CJA allows for witnesses to refresh their memory, while giving evidence, from a document made or verified by them, subject to the specified requirements;
- In terms of the Code of Conduct for the Bar, barristers have a duty to guard against asking questions, in cross-examination, which are only intended to insult or annoy the witness or some other person.

The adversarial system of justice obliges each side to observe common rules of advocacy but places a different requirement on them in terms of how they conduct their case. The prosecution has to observe a public interest standard in their conduct which entails acting fairly towards the defence at every stage. This means they should only advance evidence they believe to be true and at the least must disclose anything injurious to their case. They are obliged to make available anything which will assist the defence. On the other hand the defence are not obliged to assist the prosecution in any way. Their task is not to prove the innocence of the defendant, but to do everything they can to undermine the prosecution case. They are not obliged to disclose evidence injurious to their case and they can lead any evidence, whatever its credibility, provided they do not **know** it to be false. This very different standard flows from the nature of the adversarial system – the defendant only being obliged to answer the case against them if it has been made out satisfactorily.

The partisan character of defence advocacy as against the public interest standard for the prosecution is a logical feature of the adversarial system. The Law Society advises its members in the following terms at paragraph 2.2 of the *Law Society's Code for Advocacy*:

'Advocates have an overriding duty to the court to ensure in the public interest that the proper and efficient administration of justice is achieved: they must assist the court in the administration of justice and must not deceive or knowingly or recklessly mislead the court'

And goes on to state at paragraph 2.3 (a)

'Advocates: must promote and protect fearlessly and by all proper and lawful means the clients' best interests and do so without regard to their own interests or to any consequences to themselves or to any other person.'

Lord Justice Auld's major review of the criminal justice process observed that the distinction between the inquisitorial and adversarial systems is no longer clear. European Convention on Human Rights (ECHR), Article 6 and its attendant jurisprudence in holding that an accused cannot be obliged to give evidence against him or herself affords greater protection to defendants in the inquisitorial system. The development of pre-trial hearings and arrangements about defence disclosure are moderating the adversarial system. In effect this amounts to more judicial management of cases.

3.4 POLICE AND CRIMINAL EVIDENCE ACT 1984

The Police and Criminal Evidence Act 1984 (PACE) and its Codes of Practice are key elements of the framework of legislation, providing the police with the powers they need to investigate crime. In doing so, PACE sets out to strike the right balance between the powers of the police and the rights and freedoms of the public. Maintaining that balance is a key part of PACE.

The Act sets out the working practices applicable to the investigation of crime which are enshrined by the principles of fairness and openness. It covers areas such as search, detention in custody, interviewing, and an array of police powers, many of which will feature in every investigation. The PACE Codes of Practice explain how the principles should be interpreted in practice.

PACE was based on the recommendations in the *Report of the Royal Commission on Criminal Procedure (1981)*, a body which had been directed in its terms of reference to strike a balance between the interests of the community and the rights and liberties of the individual suspect. PACE has been amended many times since then.

Breaches of PACE are not a matter for remedy in the course of a trial, but can lead to police disciplinary proceedings or can form the basis of a complaint or legal action against the police. While mere technical breaches do not render evidence inadmissible, PACE does provide that if the breaches are substantial such that the evidence obtained would undermine the fairness of the proceedings, that evidence can be excluded.

3.5 PROSECUTION OF OFFENCES ACT 1985

The need for a single prosecuting authority in England and Wales was raised in the report of the 1981 Royal Commission. In response the Prosecution of Offences Act 1985 was promulgated. This Act created the Crown Prosecution Service (CPS), under the directorship of the Director of Public Prosecutions (DPP), which has the responsibility for public prosecutions in England and Wales. The Service incorporated all existing police prosecution departments under the DPP, thereby removing the authority for the police to conduct public prosecutions.

The Act provides the statutory framework within which the CPS operates and the authority for various administrative functions. It also give the CPS the power to decide whether to prosecute, see [3.6 Code for Crown Prosecutors](#).

It is important that the police work with the CPS using the Prosecution Team Approach and in the course of an investigation they should remember the role and duties of the prosecutor.

The prosecution team ethos means a joint approach by both the police and the CPS to improve performance and to bring more offenders to justice.

Part II of the Prosecution of Offences Act relates to the awarding of costs in criminal matters. Part III concerns the issue of time limits for the completion of preliminary stages of proceedings and the period defendants may be remanded in custody awaiting trial. Amendments have been brought about by the Crime and Disorder Act 1998 to reduce the delays in the criminal justice system, these include a suspension of the time limits where the defendant absconds, flexibility to allow for different time limits depending on the type of case and introduction of statutory time limits for proceedings against juvenile offenders.

3.6 CODE FOR CROWN PROSECUTORS

In terms of section 10 of the Prosecution of Offences Act, the DPP is required to issue a Code for Crown Prosecutors. A revised version was issued in 2004. This document sets out the basic principles to be followed in making case decisions, ie, whether to prosecute. It also sets out that a prosecutor's duty is to be fair, independent and objective, not to be affected by improper pressure and not to let their view of a case be influenced by considerations of ethnic or national origin, sex, religious or political beliefs, or the sexuality of the offender, victim or witness.

The majority of the document deals with the tests to be employed in a decision to prosecute, namely the evidential test and the public interest test for prosecutions.

3.6.1 THE EVIDENTIAL TEST

This is the first stage of the decision making process. The prosecutor must be satisfied that there is enough evidence to provide a realistic prospect of conviction against the defendant(s) on each of the charges preferred. This is an objective test so the code directs that the criteria for satisfying the test should be:

'...that a jury or bench of magistrates, properly directed in accordance with law, is more likely than not to convict the defendant of the charge alleged.'

Code for Crown Prosecutors

In making this assessment the prosecutor must have regard to the possible defence case.

Crucial to this test is the consideration of whether the evidence can be used in court and whether it is reliable. This involves considering issues of admissibility and any reasons why the evidence may be ruled unreliable, eg, defendant's age or intelligence, evidence of identity, defence version.

Only once this test has been satisfied, must thought be given to the public interest test.

3.6.2 THE PUBLIC INTEREST TEST FOR PROSECUTIONS

The classic statement on public interest, which was made by Lord Shawcross, has been supported by Attorney Generals ever since:

'It has never been the rule in this country – I hope it never will be – that suspected criminal offences must automatically be the subject of prosecution.'

The public interest must be considered in each case where there is enough evidence to provide a realistic prospect of conviction. A prosecution will usually take place unless there are public interest factors tending against prosecution which clearly outweigh those tending in favour. Although there may be public interest factors against prosecution in a particular case, the prosecution will often go ahead and those factors will be put to the court for consideration in mitigation when sentence is being passed.

Crown prosecutors must balance factors for and against prosecution carefully and fairly. Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the suspect. Some factors may increase the need to prosecute but others may suggest that another course of action would be better. Deciding on the public interest is not simply a matter of adding up the number of factors on each side, crown prosecutors must decide how important each factor is in the circumstances of every case and then make an overall assessment.

Each case is unique and must be considered on its own facts and merits. However, there are general principles that apply to the way in which crown prosecutors must approach every case. There are many factors which could be significant, eg, the likelihood of a nominal penalty being handed down at court, the defendant has put right their misdeeds, national security could be harmed. The consequences for the victim will always be considered.

Cases involving youths are usually only referred to the CPS for prosecution if the youth has already received a reprimand and final warning, unless the offence is so serious that neither of these were appropriate. Reprimands and final warnings are intended to prevent re-offending and the fact that a further offence has occurred indicates that attempts to divert the youth from the court system have not been effective. The public interest will usually require a prosecution in such cases, unless there are clear public interest factors against prosecution.

Only once both tests have been satisfied will a prosecution be instituted.

Where it is intended to keep the suspect in custody after charge and the evidence required to satisfy the aforementioned tests is not available, the crown prosecutor must apply the 'Threshold Test'. This test is the standard found in Article 5 ECHR: 'that there is a reasonable suspicion against the suspect of having committed an offence' and at that stage it is in the public interest to proceed.

In applying the test a number of factors must be considered, these include:

- The evidence available at the time;
- The likelihood and nature of further evidence to be obtained;
- The reasonableness for believing that such evidence will become available;
- The time it will take and the steps being taken to gather it;
- The impact of the expected evidence on the case;
- The charges that the evidence will support.

If the test is satisfied the person will be charged, although the prosecutor must subsequently review the evidence in terms of the Code tests to determine whether the matter should proceed.

The *Code for Crown Prosecutors* also deals with modes of trial, accepting a guilty plea, restarting a prosecution and charging, the latter having been radically transformed by the CJA.

3.6.3 CHARGING STANDARDS

Section 7 of the *Code for Crown Prosecutors* deals with charges and advises that the charges preferred should:

- Reflect the seriousness of the offending;
- Give the court adequate sentencing powers as well as powers to impose appropriate post conviction orders;
- Enable the case to be presented in a clear and simple way.

Previously a custody officer would make a decision on whether there was sufficient evidence to charge and would thereafter charge the person or release them without charge, unless the matter was still under investigation. The CJA has amended section 37 PACE to allow the CPS to play a greater role in the charging process. The *Guidance to Police Officers and Crown Prosecutors*, issued in January 2005 by the DPP, under section 37A of PACE states at paragraph 3.1:

‘Crown Prosecutors will be responsible for the decision to charge and the specifying or drafting of the charges in all indictable only, either way or summary offences where a Custody Officer determines that the Threshold Test is met in any case, except for those offences specified in this Guidance, which may be charged or cautioned by the police without reference to a Crown Prosecutor.’

Section 37(7) now includes the provision for a person to be released without charge and on bail, with or without conditions, to enable the DPP to make a decision on whether to charge.

The custody officer can determine whether to charge in the offences specified in the Guidance document (see paragraph 3.3), although both the decision to prosecute and the charges to be preferred will be subject to review by a crown prosecutor.

In making a decision on whether to charge, the custody officer must have regard to the tests set out in the *Code for Crown Prosecutors*. If there is insufficient evidence to meet the required tests and it is not appropriate for the person to be released on bail after charge, the custody officer must assess the case against the Threshold Test. If this test is satisfied then the person shall be charged and placed before the court for a ruling on pre-trial custody. After a reasonable time, which will depend on the circumstances of the case, the crown prosecutor must review the evidence in terms of the test in the *Code for Crown Prosecutors* and make a decision on whether to proceed or not.

In all other matters crown prosecutors have the responsibility for deciding whether to charge. In these matters investigating officers are directed to seek an early consultation with the duty prosecutor to identify issues such as the required lines of enquiry, evidential requirements and pre-charge procedures. In terms of the Guidance, an investigating officer is required to place certain information before the prosecutor in order that the latter can make the necessary decisions on charging. The information to be supplied is detailed in paragraph 7.2 of the Guidance document.

A summary of the roles and responsibilities of the custody officer in relation to the statutory charging provisions are set out in the *Guidance to Police Officers and Crown Prosecutors* at section 8.

3.7 CRIMINAL PROCEDURE AND INVESTIGATIONS ACT 1996

The CJA has made a number of changes to the disclosure regime. The CPIA now provides a legal definition covering the role of the investigator. The purpose is to place an obligation on the investigator consistent with the need to provide the defence and the court with a fair appraisal of what the investigation uncovered. This provision makes the conduct of the investigation a relevant issue in the trial, for example, if the enquiry is found not to be objective and reasonable.

The CPIA is the current legal basis for investigation and sets the standard. Not only must the enquiry be fair, it must also be recorded so that any evidential material can be available to all sides.

The Act is divided into seven parts but only the first two Parts are of importance to the police.

- Part I sets out the procedure for disclosure and the consequences for failing to comply.
- Part II lists the duties of the police with regard to disclosure.

The Act is supplemented by the Code of Practice issued under Part II. The Attorney General's *Guidelines on Disclosure of Information in Criminal Proceedings* and the *Joint Operational Instructions for Disclosure of Unused Material (JOPI)* are also of importance.

In terms of Part I of the Act the prosecution have a duty to disclose any information which 'might reasonably be considered capable of undermining' the prosecution case or might assist the case for the defence. The original primary and secondary disclosure of the prosecution are removed and replaced with a single continuing objective test.

Despite the fact that the Act places a duty on the prosecutor, the Code of Practice state that the police have a responsibility to assist in the process.

'Investigators and disclosure officers must be fair and objective and must work together with prosecutors to ensure that disclosure obligations are met.'

Attorney General's Guidelines, paragraph 5

In terms of the new legislative provisions, the defence will be expected to provide a more detailed statement setting out the nature of their defence, including any particular defence upon which they intend to rely and any points of law they wish to take. A list of defence witnesses must also be supplied to the prosecution.

Part II sets out the duties of the police in relation to criminal investigations, including disclosure. The Code of Practice under Part II defines the roles of the officer in charge of the case, the disclosure officer, the investigator and the supervisor of the aforementioned officers. It also sets out the duties and responsibilities of the officers regarding the recording and retention of material obtained in the course of a criminal investigation.

The CPIA Code of Practice under Part II of the Act defines the role of a disclosure officer as '...the person responsible for examining material retained by the police during the 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.'

3.8 THE HUMAN RIGHTS ACT 1998

The Human Rights Act 1998 (HRA) applies to all public authorities. It makes it unlawful for public bodies like the police to violate the rights contained in the ECHR. Articles 2 to 12 and 14 to 18 of the ECHR plus Article 1 to 3 of the First Protocol to the Convention have been incorporated into UK law by the HRA.

Article 2	Right to life
Article 3	Prohibition of torture
Article 4	Prohibition of slavery
Article 5	Right to liberty and security
Article 6	Right to a fair trial
Article 7	No punishment without law
Article 8	Right to respect for private and family life
Article 9	Freedom of thought, conscience and religion
Article 10	Freedom of expression
Article 11	Freedom of assembly
Article 12	Right to marry
Article 14	Prohibition of discrimination

Where there has been a breach of the ECHR – or even where there is about to be – the victim can take proceedings in court under the HRA. They may be able to take judicial review proceedings, obtain an injunction to stop the violation, force the public authority to take action or obtain damages and compensation.

Any person who is a victim of a violation can use the HRA. A victim includes anyone directly affected by the actions, or inactions, of any public body. A victim may include a person not necessarily directly affected by the action of a public body but who is indirectly affected. For example, a person who is likely to be subject to surveillance by the police as part of an investigation will be able to use the HRA even though they have not yet had their privacy interfered with. However, a person who is no more affected than any other member of the public is unlikely to be able to use the Act.

The HRA principally affects investigations by providing a set of standards which must be met in order to permit interference in the rights of privacy of an individual. For an official body such as the police to enquire into the affairs of a citizen they must be able to show that their activities:

- Observe the rule of law;
- Have legitimate aims;
- Are proportionate.

These principles can be expanded into the following which should underpin all investigations:

- Justification (legality) – that there were reasonable grounds to suspect some knowledge or involvement relevant to the criminal offending or disturbance of the peace;
- Authorisation – that the proper procedures have been followed, recorded and all actions were authorised;
- Proportionality – that the nature of the interference is proportional to the matter being investigated in its seriousness;
- Accountability – all the options considered and all the relevant factors must be recorded;
- Necessity – that the methods used are necessary for the purpose of the enquiry.

3.9 YOUTH JUSTICE AND CRIMINAL EVIDENCE ACT 1999

Of relevance to the investigator is Part II which deals with vulnerable and intimidated witnesses. The Act has identified categories of persons who are to be considered as vulnerable or intimidated witnesses and accordingly are to be afforded special measures during the investigation of an offence and at any court appearances. Sections 16 and 17 list these categories, which include:

- Children under 17 years of age;
- Persons suffering from a mental disability;
- Persons suffering from a physical disability or disorder;
- Persons the court feels would be likely to suffer fear or distress in giving evidence, given the circumstances of the case.

Section 16

- (1) For the purposes of this Chapter a witness in criminal proceedings (other than the accused) is eligible for assistance by virtue of this section –
- (a) if under the age of 17 at the time of the hearing; or
 - (b) if the court considers that the quality of evidence given by the witness is likely to be diminished by reason of any circumstances falling within subsection (2).
- (2) The circumstances falling within this subsection are –
- (a) that the witness –
 - (i) suffers from mental disorder within the meaning of the Mental Health Act 1983, or
 - (ii) otherwise has a significant impairment of intelligence and social functioning;
 - (b) that the witness has a physical disability or is suffering from a physical disorder.

Section 17

- (1) For the purposes of this Chapter a witness in criminal proceedings (other than the accused) is eligible for assistance by virtue of this subsection if the court is satisfied that the quality of evidence given by the witness is likely to be diminished by reason of fear or distress on the part of the witness in connection with testifying in the proceedings.
- (2) In determining whether a witness falls within subsection (1) the court must take into account, in particular –
- (a) the nature and alleged circumstances of the offence to which the proceedings relate;
 - (b) the age of the witness;
 - (c) such of the following matters as appear to the court to be relevant, namely –
 - (i) the social and cultural background and ethnic origins of the witness,
 - (ii) the domestic and employment circumstances of the witness, and
 - (iii) any religious beliefs or political opinions of the witness;
 - (d) any behaviour towards the witness on the part of –
 - (i) the accused,
 - (ii) members of the family or associates of the accused, or
 - (iii) any other person who is likely to be an accused or a witness in the proceedings.

NB Not all parts of section 17 are currently in force, particularly those relating to video-recorded evidence in chief for adults and video-recorded cross-examination and re-examination.

An application for special measures to be invoked can be made by the prosecution, defence or ordered by the court, based on its observations. Whether or not special measures are allowable or any evidence coming from them is admissible is a matter for the court. The problem for the investigator is that he or she would have had to anticipate the use of special measures beforehand. To retain the integrity of the case the investigator, during the course of investigations, must be aware of any witness or defendant that may require special measures, and take the appropriate steps when obtaining evidence. The Act lists the special measures which may be used during court proceedings, eg, video-recorded evidence in chief, evidence by live link and the use of screens.

For further information and guidance see *The Prosecution Team Manual of Guidance incorporating the JOPI 2004/05 Annex F paragraphs 3 and 11 – 13*.

The *JOPI* 'has been prepared by members of the Prosecution Team, police officers and crown prosecutors concerned with the preparation, processing and submission of prosecution files. It is intended to be "user friendly", and contains advice and guidance about how to complete each of the constituent MG forms, along with description of each type of prosecution file and its application in practice.'

The Prosecution Team Manual of Guidance incorporating the JOPI 2004/05

The following documents are also incorporated:

- *Guidance to Police Officers and Crown Prosecutors in Respect of Making Charging Decisions* (issued by the Director of Public Prosecutions);
- *Joint Operational Instructions for Disclosure of Unused Material*;
- *ACPO Guidance on Bail with Conditions, Criminal Justice Act 2003*.

3.10 REGULATION OF INVESTIGATORY POWERS ACT 2000

Prior to this Act, covert police investigations were governed on a non-statutory basis by Home Office guidance which mirrored the authorisation process contained within the Interception of Communications Act 1985. Following a series of landmark judgements handed down by the European Court of Human Rights it was made clear that a non-statutory authorisation regime in respect of these techniques was insufficient. To ensure compliance with the ECHR, RIPA was introduced to provide a statutory framework for the use of covert techniques. The Act effectively allowed lawful interference with the provisions of Article 8, provided the law enforcement agencies can show that they have legitimate aims. These are set out within the Act and include:

- In the interests of national security;
- To prevent or detect crime (or in certain cases serious crime);
- To safeguard the economic well-being of the UK.

The Act is made up of five parts:

- Part I relates to the interception of communications and the acquisition and disclosure of communications data;
- Part II covers the use of surveillance, Covert Human Intelligence Sources (CHIS) and undercover officers;
- Part III deals with the investigation of electronic data protected by encryption, (the provisions of this part are not currently in force);
- Part IV is the authority for independent judicial oversight of the powers in the Act;
- Part V relates to miscellaneous and supplemental matters.

3.10.1 INTERCEPTION OF COMMUNICATIONS

Part I of the Act provides a 'warrant regime' for the interception of postal and telephone communications in the course of their transmission. Section 5(3) of the Act sets out the grounds upon which an interception warrant may be granted.

Part I of the Act also sets out the circumstances where such an interception may take place without the need for a warrant, where for example, one of the parties to the communication has consented.

3.10.2 SURVEILLANCE AND COVERT HUMAN INTELLIGENCE SOURCES (PART II)

Intrusive surveillance

Section 26(3) defines this as covert surveillance that is carried out in relation to anything taking place on any residential premises or in any private vehicle and involves the presence of an individual on the premises or in the vehicle, or is carried out by means of a surveillance device.

Covert surveillance is not intrusive where it is carried out by means of a surveillance device not present on the residential premises or in the private vehicle, unless it consistently provides information of the same quality and detail as might be expected from a device which is actually present on the premises or in the vehicle.

Section 32 sets out the persons responsible for the authorisation of intrusive surveillance, together with the grounds upon which such authorisations may be granted.

Directed surveillance

Section 26(2) defines directed surveillance as covert surveillance that is undertaken for the purposes of a specific investigation or operation, and in such a manner as is likely to result in the obtaining of private information about a person. Authorisation is not required where the surveillance is by way of an immediate response to events or circumstances where it would not be reasonably practicable to obtain one.

Section 28 sets out the persons responsible for the authorisation of directed surveillance, together with the grounds upon which such authorisations may be granted.

Covert Human Intelligence Source

Section 26(8) defines a CHIS as a person who establishes or maintains a personal or other relationship with a person for the covert purpose of using that relationship to obtain information, to provide access to any information or to disclose information obtained as a consequence of that relationship.

Section 29 sets out the persons responsible for the authorisation for CHIS, together with the grounds upon which such authorisations may be granted.

Surveillance activity and CHIS conduct will, if properly authorised under Part II of RIPA, be lawful for all purposes.

3.10.3 ELECTRONIC DATA PROTECTED BY ENCRYPTION (PART III)

Section 49 empowers the police to issue a notice requiring disclosure of the decryption key to any protected information which has lawfully come into their possession. All matters involving the decoding of encrypted matter should be referred to the National Technical Assistance Centre (NTAC), see [Appendix 3](#) for contact details.

At the time of writing the provisions of Part III have yet to come into force.

3.10.4 POLICE ACT 1997

By their nature, covert investigations often involve entry onto private land or interference with privately owned property. In the absence of any lawful authority such actions can constitute a civil wrong, actionable by the owner of the property or land for damages. The effect of section 92 of the Police Act 1997 is that no entry on or interference with property or with wireless telegraphy shall be unlawful if properly authorised under that Act.

The authorisation process and the grounds upon which such an authorisation may be granted are set out at section 93 of the Act.

3.11 RACE RELATIONS (AMENDMENT) ACT 2000

The significance of the Race Relations (Amendment) Act is in the extension of the prohibition of racial discrimination to public functions not covered in the earlier Acts. The Act imposes positive duties on public bodies to eliminate discrimination and to promote racial equality.

Section 1 (which inserts section 19B into the 1976 Act) states that:

‘It is unlawful for a public authority in carrying out any functions of the authority, to do any act which constitutes discrimination.’

Accordingly there is a positive duty on all police officers to carry out investigations, and all other duties, having due regard to the need to;

- Eliminate unlawful racial discrimination;
- Promote equality of opportunity;
- Promote good race relations between people of all racial groups.

Non-compliance with this duty can result in legal sanctions against the chief constable and the police authority and leave the investigator open to severe cross-examination on his or her investigatory techniques, with the resultant loss of credibility, at trial.

3.12 DUTY OF CARE

In terms of the *Police Service Statement of Common Purpose* a constable's duty is to uphold the law fairly and firmly:

- To prevent crime;
- To pursue and bring to justice those who break the law;
- To keep the Queen's peace;
- To protect, help and reassure the community;
- To be seen to do all this with integrity, common sense and sound judgment.

At common law there is a duty of care placed on all police officers to protect and ensure the safety of all citizens. A crucial case relating to this duty of care was that of *Osman v UK* 29 EHRR 245 where the court held that Article 2 ECHR (the right to life) imposes a positive duty on states to safeguard the lives of those within their jurisdiction. The court went on to hold that in certain circumstances the police have a duty to take all reasonable steps to protect potential victims from a real and immediate threat to their lives arising from:

- i Actual or threatened criminal acts of another;
- ii Suicide *Karen Orange v Chief Constable West Yorkshire Police* (2001).

For the police to be held accountable on the duty of care, the courts have held that the police must have been aware of the likelihood of the danger or risk to the individual concerned.

This duty extends to witnesses, victims, members of the public and defendants. A breach of this duty may give rise to a civil action for damages.

In *Vellino v Chief Constable of the Greater Manchester Police* (2001), the court held that the police had a duty of care for the health and safety of those in their custody but that they owed no duty of care towards an arrested person to ensure that he was not injured in a foreseeable attempt to escape from lawful custody.



PART II

Section 4 – The Criminal Investigation Process

Section 5 – Investigative Decision Making

Section 6 – Investigative Strategies

Section 7 – Management

Section 4

THE CRIMINAL INVESTIGATION PROCESS

This section defines the term ‘material’ and how it is generated and used in the criminal investigation process. It explains how the initial amount of material generated by an offence can differ from the amount which is finally admitted as evidence in court.

This section also describes the criminal investigation process which includes reactive and proactive methods of investigation.

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4.1 MATERIAL

Understanding what material is, how it is generated during a criminal offence and how it can be located, gathered and used are all central to the investigation of crime. The definition of material used throughout this document is taken from the CPIA Code of Practice under Part II of the Act.

‘Material is material of any kind, including information and objects, which is obtained in the course of a criminal investigation and which may be relevant to the investigation; Material may be relevant to an investigation if it appears to an investigator, or to the officer in charge of an investigation, or to the disclosure officer, that it has some bearing on any offence under investigation or any person being investigated, or on the surrounding circumstances of the case, unless it is incapable of having any impact on the case.’

It may be difficult for investigators to predict what will or will not be relevant to the investigation, particularly during the early stages when the exact nature of what has happened, and who is involved may still be unclear. In the first instance, if in doubt, investigators are advised to err on the side of caution and, where it is legally permissible, to gather and retain material. Subsequently supervisors or crown prosecutors can be consulted to determine whether the material should be retained for use in the investigation or in subsequent court proceedings.

There are a number of potential sources from which the investigator can gather material. These include:

- Victims;
- Witnesses;
- Suspects;
- Locations, including scenes of crime and the victim’s or suspect’s premises;
- Passive data generators which are systems that collate or record data automatically and generate material which is not intended solely for the purpose of an investigation, eg, CCTV recordings, telephone records, banking and credit card records;
- Intelligence databases.

Material may present itself in different formats. Any tangible object could be material. Intangible things such as sound or images can be reproduced in a format (eg, video or audio recordings) that can be used in evidence. In practice the most common formats for material are;

- Statements;
- Documents;
- Reports;
- Physical exhibits such as weapons, clothing, stolen goods and biological or chemical material;
- Fingerprints;
- Images;
- Audio or video recordings.

The skill of the investigator is not only to identify and locate potential sources of material but also to understand how the material must be gathered and stored in a format that is evidentially admissible.

Information, Intelligence and Evidence

Whether material becomes information, intelligence or evidence is dependent on the use to which it is put.

For example, a CCTV image of a disturbance can be:

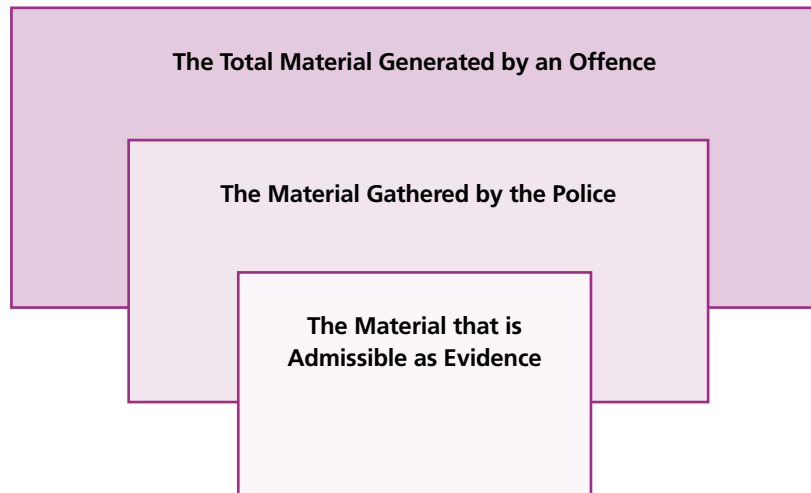
- Information - if it is used to identify the time, location, circumstances and numbers involved in the incident;
- Intelligence - if it is analysed together with other material to identify local people who frequent that area, have similar clothes and are suspected of involvement in other disturbances;
- Evidence - if it is used in court to show that a particular suspect was involved in the disturbance.

All material gathered during an investigation is subject to the CPIA, irrespective of whether it is used as information, intelligence or evidence.

4.2 HOW MATERIAL IS GENERATED

Figure 2 *The Attrition of Material During the Investigation Process* illustrates the reduction in the total amount of material generated by a criminal event and the eventual amount that is used in court. Ideally, the total amount of material generated by a criminal event will be collected by the police and be admissible as evidence, but this is rarely possible.

FIGURE 2 The Attrition of Material During the Investigation Process



4.2.1 THE TOTAL MATERIAL GENERATED BY AN OFFENCE

The amount of material that is generated by a criminal event depends on a number of factors, such as whether the crime is spontaneous or planned, the offender's criminal experience, the number of people who know that the offender is involved and the level of contact between the offender and the victim. Each crime has a unique mix of material, but the amount is finite as there are only so many witnesses or so much physical evidence.

4.2.2 THE MATERIAL GATHERED BY THE POLICE

The aim of the investigator is to maximize the amount of material that is collected. It is not always possible to collect all of the material generated by an offence. Some physical material may be lost or destroyed, some witnesses may not be located, and some of the material will only be known to offenders who do not reveal it to others. Starting an investigation as soon as possible after an offence has been committed will enhance the investigator's opportunity to gather the maximum amount of material (the Golden Hour principle).

While it should always be the investigator's goal to gather material that will later be admissible as evidence, there will inevitably be occasions when this cannot be achieved. The rules that determine what material will be accepted by a court as evidence are complex and are often themselves contested within a criminal trial. As a consequence all material may be judged to be admissible under certain circumstances. There are a number of general principles, however, which mean that some material will not normally pass the evidential test, eg, hearsay, second person testimony, intelligence reports or evidence of opinion. Even though the material is of a type that is generally not admissible, it does not mean that it should not be gathered or that it will not assist the investigation. Such material may be highly valuable in setting parameters for other investigative activities or generating lines of enquiry that may produce other relevant, reliable and admissible material, and should, therefore, always be gathered.

4.2.3 THE MATERIAL THAT IS ADMISSIBLE AS EVIDENCE

As an investigation progresses the amount of material that will be capable of being used as evidence in court will be less than that gathered by the police. The Interpretation of the rules of evidence are complex and investigators should always provide the CPS with all of the material that has been gathered so that decisions can be made as to its value as evidence.

Any material (subject to public interest immunity guidance, see *3.7 Criminal Procedure and Investigations Act 1996*) gathered during the course of an investigation that is not used as evidence may be disclosed to the defence as part of the unused material in the investigation.

The Golden Hour

The Golden Hour is a term for the period immediately following the commission of an offence when material is abundant and readily available to the police.

Positive action in the period immediately following the report of a crime minimises the attrition of material and maximises the chance of securing the material that will be admissible in court.

The list below outlines some Golden Hour considerations for investigators:

- Victims:** Identify, support and sensitively preserve evidence;
- Scenes:** Identify, preserve, assess and commence log;
- Suspects:** Identify, arrest and preserve;
- Witnesses:** Identify, support and prioritise (key and significant), record first account and description of suspect(s);
- Log:** Decisions and rationale, circumstances, resources, and conditions;
- Family/Community:** Identify, inform, primary support (needs, concerns expectations, sensitivity);
- Physical Evidence:** Preservation (CCTV, public transport, escape routes, ambulances, hospitals);
- Intelligence:** Identify, prioritise, maximise, exploit, consider, community and open source;
- Prevent Contamination:** Victims, scenes, witnesses, suspects;
- Lines of Responsibility:** Identify, inform, brief, coordinate and review.

Metropolitan Police

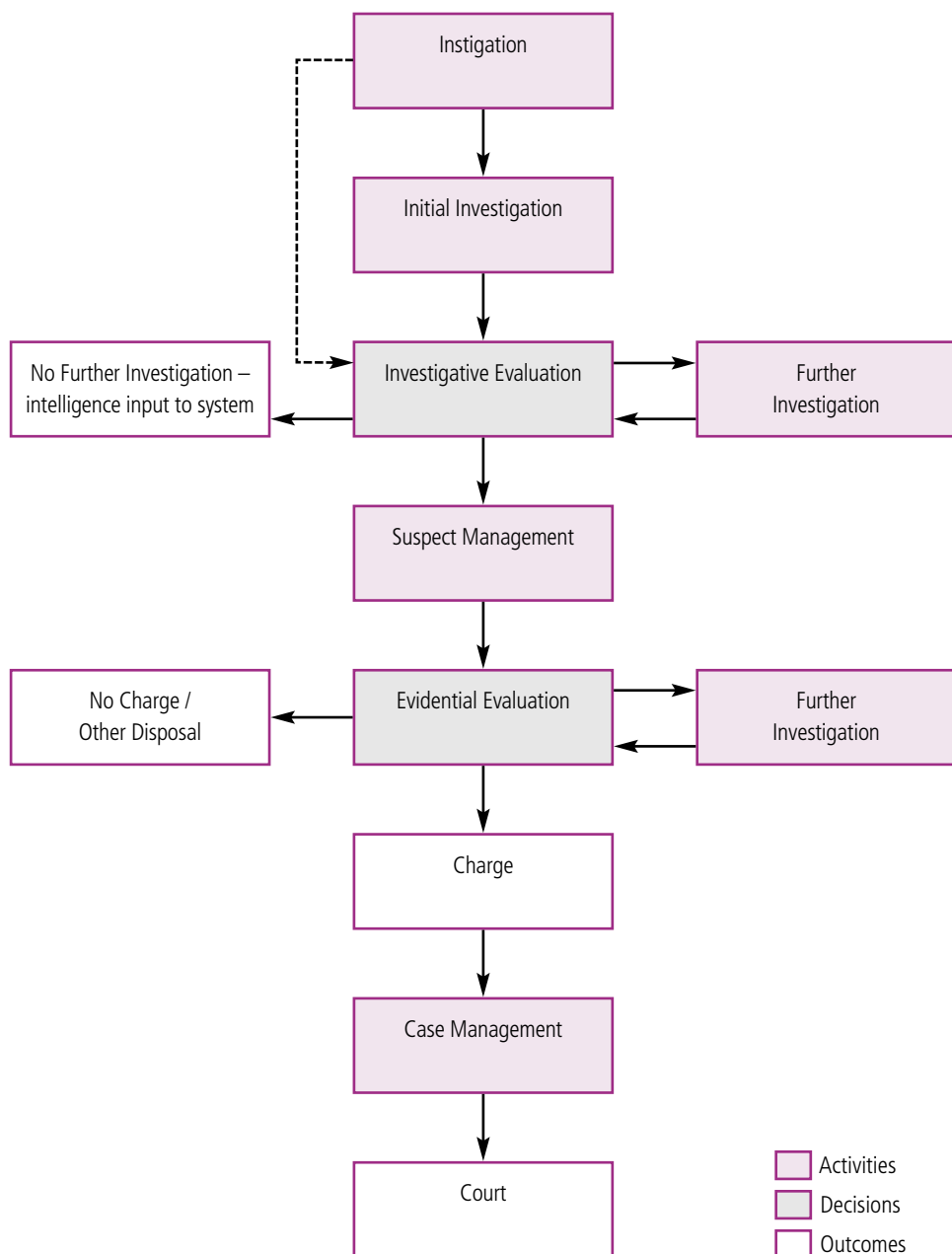
4.3 THE METHODS OF CRIMINAL INVESTIGATION

There are two methods of criminal investigation – reactive and proactive. The proactive method is sometimes called intelligence led or covert investigation.

The main difference between these two methods is that the reactive method starts with the discovery of a crime and seeks to bring offenders to justice by uncovering material that identifies suspects and provides sufficient evidence to enable a court to determine their guilt. The technique of reactive investigations focus on interviewing victims, witnesses and suspects, the examination of scenes and the development of forensic links between suspects and the offence. The proactive method usually starts with an intelligence analysis that a particular individual or group is involved in criminal enterprise. This is often organised crime such as drug dealing, fraud or people trafficking. Individual instances of such offending are rarely reported to the police and so generally the techniques of reactive investigation cannot be used. As a result investigators generally use a range of covert surveillance techniques which are designed to link offenders to the criminal enterprise. These techniques are often complemented by financial investigations and forensic science techniques.

The two methods of investigation may overlap, particularly after a suspect has been arrested. A reactive investigation may also use covert policing techniques as part of the overall strategy and vice versa. The two methods of investigation should not, therefore, be considered as being wholly discrete or mutually exclusive.

FIGURE 3 The Stages of Criminal Investigations



4.4 A MODEL OF THE INVESTIGATION PROCESS

The type of activity individual investigators engage in and the type of material that is gathered varies depending on whether investigations use the reactive or proactive method. However, they all go through similar stages, see [Figure 3 The Stages of Criminal Investigations](#).

The purple sections represent activities selected from investigative strategies, see [6 Core Investigative Strategies](#), the grey sections represent the main decision points, see [5 Investigative Decision Making](#) and the white sections are the outcomes that can be achieved.

Every investigation is different and may require a different route through the model. For example, in some cases the identity of the offender is known from the outset and the investigation quickly enters the suspect management phase. In others, the identity of the offender may never be known or will only be discovered after a lengthy further investigation.

4.4.1 INSTIGATION

The instigation of criminal investigations can occur in a number of ways:

- Reports from the general public such as attendance at police stations, phone calls, online and to patrol officers;
- Referral by other agencies;
- Intelligence links to other crimes (linked series);
- Re-investigation as a result of new information, cold case or other type of review;
- Discovered as a consequence of other police actions.

Call takers, public counter staff and patrol officers receiving initial reports will be guided by force policy on the information that is to be gathered and the action that is to be taken in any given case. As a general principle they must be mindful that when receiving these reports they are commencing an investigation and will receive material that is relevant to it. They are under the same obligations as others involved in the investigation to record and retain this material and to ensure that it is communicated to the investigating officer. The investigators should be familiar with the investigative strategies relating to victims and witnesses as this will enable them to exploit early opportunities to gather material by questioning the person reporting the crime, see [6 Core Investigative Strategies](#).

The arrangements for receiving reports of crime vary from force to force and investigators should familiarise themselves with their local arrangements.

Sources of instigation in proactive investigations are:

- Crime pattern analysis;
- Market profiles;
- Network analysis;
- Target profile analysis;
- Operational intelligence assessment;
- Tactical assessment;
- Problem profile;
- Tactical profile.

These sources are often referred to by investigators as intelligence packages and have been developed by national, force or local intelligence systems. They identify groups or individuals who are assessed as being involved in ongoing criminal activity. They will generally have been through a tasking and coordinating process which has then allocated them for further investigation.

Irrespective of the method of instigation, those involved need to understand that the instigation phase is part of the investigation and is therefore subject to the provisions of the CPIA.

Investigators, who are allocated crimes for further investigation, need to identify who dealt with the instigation phase, establish what decisions have already been made, what actions have been taken and what material has been gathered so far. They should take possession of this material, or if the original material remains in the hands of third parties, obtain copies and ensure that the original is retained in accordance with the CPIA.

4.4.2 INITIAL INVESTIGATION

Not every report of a crime will require an initial investigation. Intelligence packages and referrals from other agencies are likely to be allocated for further investigation without the need for any initial investigation. The majority of reports are, however, likely to be dealt with by deploying police officers to a scene or to the person reporting. In some police forces the initial investigation of certain categories of crime are dealt with entirely over the telephone before a decision to carry out further investigation is made.

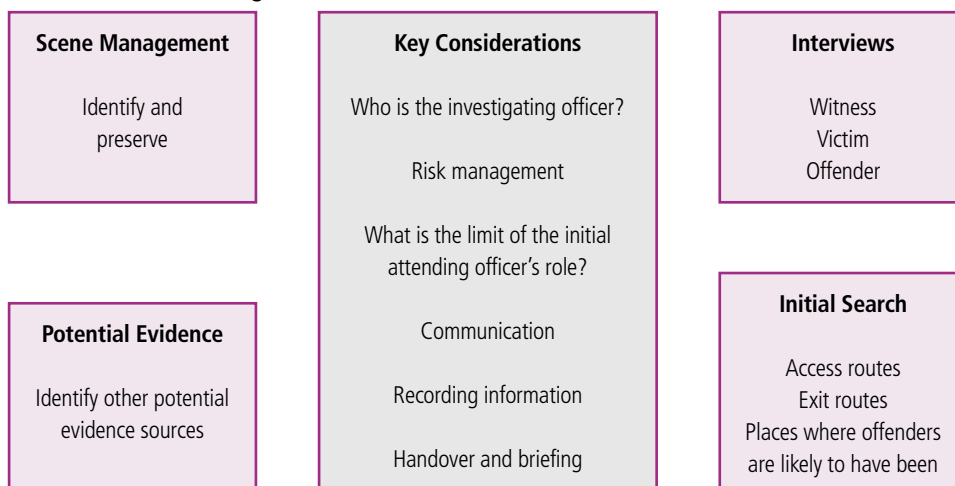
Whether carried out in person or over the telephone, the quality of the initial investigation is a significant factor in gathering material that leads to detection of a crime. The first opportunity to locate and gather material may be the only opportunity. For example, scenes that are not identified and secured will deteriorate quickly; witnesses who are not identified and interviewed straight away may discuss events with others and thus contaminate their recollection of the event or may leave the area and be impossible to trace later; CCTV images that are not recovered immediately may be recorded over during the days following the incident and be lost to the investigation. It is vital that those engaged in the initial investigation of a crime take positive action to ensure that material is not lost in this way. They should always investigate the crime as thoroughly as possible and not merely record the details on the assumption that the crime cannot be solved or that someone else will carry out an investigation at a later stage.

Officers initially deployed to an incident are likely to have a number of competing demands placed on them as they arrive. Before they can begin an investigation they may have to:

- Deal with a violent situation;
- Provide first aid and call for medical assistance;
- Reassure victims and witnesses;
- Prevent public disorder.

Once these immediate priorities are dealt with, officers should plan how best to conduct the investigation. They should use the investigative strategies which are as applicable to initial investigation as they are to suspect management and further investigation, see [6 Core Investigative Strategies](#). The key factors they should consider are shown in [Figure 4 Initial Investigation](#).

FIGURE 4 Initial Investigation



In cases where it appears that a major crime has been committed such as a homicide or rape, the role of the first officer at the scene is described in the *ACPO Murder Investigation Manual (MIM)*. In such cases officers should call for assistance from supervisors. While officers await assistance their priorities should be:

- Preserve life;
- Preserve scenes;
- Secure evidence;
- Identify victims;
- Identify suspects.

In cases of major crime a supervisor or senior investigating officer (SIO) will take responsibility for directing activity at the scene.

Most crimes reported to the police are not major incidents and usually the officer who first attends will be the only resource that is required. This officer may be the investigator throughout the enquiry.

Concluding the Initial Investigation

In complex investigations it is unlikely that there will be a clear distinction between the initial investigation and further investigation. In practice what happens is that once an SIO arrives, the initial investigation continues to its conclusion. Further investigation activity is then instigated by the SIO.

In general the initial investigation phase will be complete when:

- The investigator has obtained an account from the victim and any witnesses who are immediately available (individual force policy will determine whether these accounts are obtained in the form of a witness statement (MG11), notebook entry or verbally);
- The immediate needs of victims and witnesses have been met;
- The crime scene examination has been instigated;
- All fast track actions indicated by the material to hand have been taken;
- All records required by the CPIA and individual force policy have been made;
- All intelligence gathered during the initial investigation has been submitted.

Creating a comprehensive record of all enquiries completed in the initial investigation will:

- Assist the investigator to carry out an investigative evaluation;
- Contribute to the intelligence picture of crime in the area;
- Enable supervisors to assess the quality of the investigation;
- Facilitate the hand-over of the investigation if it is allocated to another investigator.

Where the case is allocated to another investigator a briefing should be conducted at the conclusion of the initial investigation. The briefing should include the actions that have been undertaken and by whom, the decisions that support that action and details of the material gathered so far. This provides the new investigator with a clear understanding of events and assists them to prioritise the investigative actions that will be required to progress the case.

Fast Track Actions

This term is traditionally associated with major enquiries but should apply to every investigation whether or not it is using the reactive or proactive method of investigation. The *MIM* defines fast track actions as:

'Any investigative actions which, if pursued immediately are likely to establish important facts, preserve evidence or lead to the early resolution of the investigation.'

The time when this type of action can be most decisive is usually during the initial investigation but the opportunity can occur at any stage.

Fast track action is particularly appropriate when investigators are responding to incidents which are still ongoing or have only recently ended. Material in the form of witnesses, forensic evidence and articles associated with the crime may be readily available if prompt action is taken to gather them.

Whether the crime has been recently committed or not, the **first** chance to obtain material may be the **last**. To delay protecting, preserving or gathering material may result in it being contaminated or lost. It is important that every chance to gather material is taken as soon as possible.

In larger enquiries SIOs must establish strategies to ensure that new information is brought to their attention quickly so that fast track action can be taken when it is needed.

4.4.3 INVESTIGATIVE EVALUATION

Progress in a case involves making valid decisions about the value and meaning of the material gathered and selecting appropriate lines of enquiry to follow. The investigator has to continually evaluate material, see [5.5 Investigative and Evidential Assessment](#).

In some police forces a crime evaluator conducts a formal evaluation at the conclusion of the initial investigation process. A crime evaluator is an experienced investigator who evaluates the material gathered so far and decides if the crime is to be allocated for further investigation. Most forces have developed policies to guide evaluators on the type of crimes that will be subject to further investigation and the resources or units that they will be allocated.

Even where crimes have been through a formal evaluation process, investigators should continue to carry out their own evaluations as new material becomes available.

4.4.4 FURTHER INVESTIGATION

Where a crime or intelligence packages are allocated for further investigation, investigators should develop a clear plan of how they intend to bring the investigation to a successful conclusion.

In some cases the initial investigation and the investigative evaluation will lead to the identification of a suspect and sufficient material to justify interviewing the suspect under caution, eg, where victims or witnesses have made an allegation against a named individual. In these circumstances the investigation is likely to move straight into the suspect management phase, see [6.11 Suspect Strategy](#). Where this is not the case, further investigation will focus on gathering material that leads to the identification of a suspect, see [6 Core Investigative Strategies](#).

In either case the investigative plan should be based on a rigorous evaluation of the material that has been gathered to date and should include:

- The specific objectives of the investigation, these will depend on the unique circumstances of the crime and the material that has already been gathered;
- The investigative strategies that are to be used to achieve those objectives;
- The resource requirement of the investigation. In many cases this will be limited to the investigator, crime scene examination and forensic analysis of the material recovered from the scene or the suspect. In more complex cases resource allocations will be greater. It is part of an investigator's responsibility to articulate their resource requirements to managers.

Investigators should ensure that all new material is evaluated and that the investigative plan is revised accordingly. All Investigative plans should be accurately recorded, see [7.7 Record Keeping](#).

4.4.5 SUSPECT MANAGEMENT

A suspect is defined as: someone who the police would have to caution under paragraph 10, Code of Practice C PACE 1984 if they wanted to interview them.

This definition requires that:

‘There must be some reasonable, objective grounds for the suspicion, based on known facts or information which are relevant to the likelihood the offence has been committed and the person to be questioned committed it.’

(Note 10A of Code of Practice C)

The identification of a suspect provides an opportunity to use a range of investigative strategies that focus on that individual, see [6 Core Investigative Strategies](#).

4.4.6 EVIDENTIAL EVALUATION

This is undertaken when investigators believe there is sufficient material to justify charging a suspect, see [5.5 Investigative and Evidential Assessment](#). It uses the same techniques as the investigative evaluation but the additional test of admissibility is applied to the material.

The *Guidance for Police Officers and Crown Prosecutors* issued by the Director of Public Prosecutions under section 37A PACE and the *JOPI* provide guidance on the referral of cases to the duty prosecutor for a charging decision. They also include the action to take in situations where the duty prosecutor cannot be contacted.

Crown prosecutors work closely with investigators to ensure that the charges used are the most suitable for the material that is available.

4.4.7 CASE MANAGEMENT

Once the suspect has been charged there are a number of matters which investigators must manage before a case goes to court. The CPS have responsibility for the prosecution of the case after a suspect has been charged. If further investigative action is required investigators will liaise closely with the CPS.

Additional Material

There is the possibility that new material will become available after charge. This material may affect the eventual outcome of the case. If investigators have been thorough during the course of the investigation the impact of new material should be minimal. All new material must be evaluated and any reasonable lines of enquiry that are identified must be pursued.

Disclosure

Part I of the CPIA and the *JOPI* contain specific instructions on disclosure.

The investigator has to manage the disclosure process, which includes:

- i Retaining all relevant material;
- ii Recording all retained material;
- iii Ensuring that the retained material is revealed to the prosecutor.

Under the CPIA it is necessary for the prosecution to disclose everything that it intends to rely on in court. In addition anything which may undermine the prosecution case, assist the defence case as set out in their defence statement and any unused material must be disclosed. This duty is a continuing duty and if any further material comes to the attention of the prosecution, they are obliged to disclose this to the defence.

All material is subject to disclosure considerations, whether it has been used as information, intelligence or evidence.

For further information and specific guidance on disclosure issues see the *JOPI*.

File Preparation

Accurate and full record keeping is essential throughout an investigation, see [7.7 Record Keeping](#). Investigators should check that all records have been fully completed and that there are no matters to be resolved. There may be reports outstanding from forensic scientists or other experts and these should be obtained and thoroughly checked to ensure that they do not contradict the prosecution case.

Exhibit management is an important part of file preparation, see [7.7 Record Keeping](#). In complex or serious cases investigators should refer to the Major Incident Room Standard Administration Procedures (MIRSAP) manual on exhibit management. In volume or less serious crime it is still a fundamental principle that any exhibit is properly numbered and labelled, sourced and provenanced by a witness.

It is the role of prosecutors, defence solicitors and the courts to thoroughly test the reliability and integrity of the material gathered during an investigation. A prepared investigator who has used a methodical and systematic approach to record keeping during the investigation and file preparation will be able to withstand scrutiny.

Defence Liaison

In most cases, post-charge liaison with the defence will be carried out by or in association with the CPS. In some circumstances, however, it may be necessary for the investigator to become involved in the following:

- Interviewing witnesses disclosed by the defence;
- Monitoring the offender while on bail;
- Responding to defence disclosure.

[Checklists 1 to 3](#) set out the considerations which an investigator needs to take into account when preparing for a trial.

Checklist 1: Suspect Considerations

- Bailed
 - Conditions – what are the bail conditions?
 - Checks – compliance with bail conditions/frequency of checks
- In custody
 - Self harm/suicide
 - Prison notification
- Other considerations
 - Up-date victim/witnesses whether suspect bailed or in custody
 - Bail appeals
 - Prepare schedule of offences to be taken into consideration (TICs)
 - Defence statements and alibi notices
 - Disclosure – sensitive material (PII)
 - Obtaining outstanding material – Custody Time Limits – Prosecution of Offences (Custody Time Limits) (Amendment) Regulations 1999/2000
 - Liaison – CPS, case conferences, briefing counsel
- Risk assessment of suspect safety

Checklist 2: Victims and Witness Considerations

- Continual liaison–
 - Suspect bail conditions/amendments
 - Risk assessment – safety plans/protection/intimidation
 - Court familiarisation visit
 - Liaison victim and witness support
 - Special measures
- Antecedents – consent for medical history
- Availability
 - Witnesses – experts
 - Interpreters
 - Floating cases
 - Convey to court and conduct money
- Victim Personal Statement Scheme
 - Compensation/Criminal Injury Compensation Authority (CICA)
- Additional statements
- Notification of other agencies involved, eg, social services, witness protection
- Discontinuance

Checklist 3: Investigator's Considerations

- Pre-trial reviews – attendance
- Forensic results – secondary submissions
- Defence disclosure – review of material
- Court security – liaison with court staff and provision of resources
 - Jury interference
 - Trial relocation
- Exhibit location/storage and handling
- Review statements and file



Section 5

INVESTIGATIVE DECISION MAKING

This section details the decision-making process employed by investigators, and the factors which may affect decision making. It also proposes a number of measures, including the investigative mindset and investigative and evidential evaluation to assist investigators in making accountable decisions and to minimise the chance of errors.

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5.1 INVESTIGATIVE DECISION MAKING

During an investigation decisions must be made on a number of issues. Decision making is, therefore, central to any criminal investigation. A core skill for any investigator is the ability to make decisions which can be justified to others. Despite this, decision-making skills are not generally part of investigator training.

'A decision is a choice between a variety of alternatives and a decision maker is whoever makes such a choice. A decision can be made instantly but more often involves the decision maker in a process of identification, analysis, assessment, choice and planning.'

Heller (1998)

Flawed decision making has been responsible for failed investigations and miscarriages of justice, for example, the *Shipman Inquiry Report*, the *Byford Report*, the *Stephen Lawrence Inquiry Report*. Failures in decision making are not only confined to major investigations or difficult cases. A study carried out in 1992 for the Royal Commission on Criminal Justice found that the most common type of error in crime investigation was that of decision making (*Irvine and Dunningham, 1992:37*), which is supported by the *Home Office Paper 218, 2004, Reviewing Murder Investigations*.

5.2 HOW INVESTIGATORS MAKE DECISIONS

Relatively little research has been conducted into the ways in which investigators make decisions. They usually rely on a set of working rules (or heuristics) that they develop from their experience of conducting investigations. They also learn working rules from colleagues.

These working rules enable investigators to understand the situations they are faced with and provide a framework which helps them to understand the material they gather. Working rules are an efficient means of decision making and generally present few problems although they do have a number of limitations which investigators should be aware of, if they are to avoid making inappropriate decisions.

5.2.1 LIMITED PERSONAL EXPERIENCE

There has been a tradition in the Police Service of learning on the job. The resulting range of working rules that investigators have depends on their personal experience. As a consequence an investigator's ability to make decisions may be limited by the extent of their experience and the degree to which they are able to adapt it to any given situation.

As the unique experience of each investigator contributes to the working rules they acquire, there will be considerable variation in the way that different individuals make decisions during investigations. Some variation is inevitable, and even desirable, but this can cause difficulties in designing and implementing audit regimes and judging individual performance.

5.2.2 THE UNCONSCIOUS NATURE OF WORKING RULES

Working rules can become so familiar to investigators that they are not always aware that they are using them. This may lead to difficulties in describing how a particular decision was reached. Investigators may refer to these decisions as being based on hunches, gut reaction or intuition, and are unable to explain the rationale behind them, making it difficult for others to understand the decision-making process. In principle there may be nothing wrong in following hunches or gut reactions, but the investigator must expect to account for their decisions to others including victims, witnesses, supervisors, managers, and/or to partners in the criminal justice system.

5.2.3 PERSONAL BIAS

There are occasions when decisions are unconsciously affected by personal perceptions of people, places and situations. Racism, sexism or homophobia can influence the thought process without the individual realising the effect that they are having.

Individual biases can affect decision making. For example, an investigator attends the scene of a domestic burglary and decides not to conduct house-to-house enquiries in the vicinity because of an assumption that no-one will tell them anything worthwhile. In this situation, the opportunity to gather information from the immediate neighbours is missed and this may have a detrimental effect on the investigation.

5.2.4 VERIFICATION BIAS

If investigators develop an early view as to what has occurred or who is responsible for a crime, there is a danger that they focus on the material that supports that view. This can result in a situation where they only gather material that supports their view, thus reinforcing their opinion that their view is correct. This will lead investigators to ignore alternative lines of enquiry or sources of material.

Investigators should avoid taking too firm a view on any point until they have gathered the maximum amount of material. Where information levels are low, well developed hypotheses can be powerful tools and their use is discussed in [5.5 Hypotheses](#).

5.2.5 AVAILABILITY ERROR

There is a danger that an investigator will base their decisions about the investigation on material that is vivid and memorable, dramatic, emotionally charged or easy to visualise. Such material might be psychologically compelling, because it appears familiar or is linked to a memory, but it may not necessarily reflect the material at the investigator's disposal.

Investigators should maintain an open and objective approach to gathering material and be prepared to challenge their own reasoning behind a decision. Using the investigative mindset and challenging personal perceptions will assist the investigator in avoiding availability error.

5.2.6 OTHER FACTORS AFFECTING DECISION MAKING

There are a number of factors which may also adversely affect the quality of decision-making. Whilst no one can rid their mind of these ingrained flaws anyone can learn to understand the traps and compensate for them (*Hammond, 1998*). Factors which may affect decision making include:

- Sweeping statements which overgeneralise and ignore contradictory evidence;
- Oversimplifying the facts by assuming clearly defined boundaries when it is not possible to do so;
- Making inferences from the particular to the general, eg, assuming that because some are, all are;
- Begging the question, eg, taking things for granted which have not yet been proven;
- Special pleading, eg, stressing only one view point and ignoring other more relevant or plausible opinions because they conflict (the arrogance of experience);
- Potted thinking is using simplistic assertions in an unwarrantable fashion, eg, using slogans or catchphrases in arguments;
- Early assumptions about material or a source of material can potentially misdirect the focus of an investigation and cause relevant material to be overlooked;
- Investigators can become overwhelmed by information, which may result in the investigation losing direction or focus;
- Building unlikely hypotheses that do not reflect the known facts, ultimately causing the investigation to become misdirected, or an opportunity to be overlooked;
- Wasted effort caused by investigative actions which although satisfactory, may be time consuming but not optimal to the investigation;
- Poor examination or evaluation of material (including investigative interviewing) may cause relevant lines of enquiry to be overlooked;
- Underestimating the importance of victims or witnesses. A polite but disregarding approach by investigators may potentially cause victims and witnesses to become unhelpful or apathetic to the investigation or subsequent criminal proceedings.

All of the above limitations can have a detrimental affect on the quality of decisions taken by investigators but by being conscious of them, they can adopt a disciplined approach to decision making.

There are dangers in overstating the extent to which the use of investigators' working rules for decision making are problematic. All occupational groups develop and use such rules and in reality there is no effective alternative. Investigators must, however, be aware of the potential pitfalls, and actively challenge their personal perceptions and understanding.

5.3 THE INVESTIGATIVE MINDSET

The application of an investigative mindset will bring some order to the way in which investigators examine material and make decisions. There is no process map that will assist the investigator to develop the mindset, it is a state of mind or attitude which investigators adopt and which can be developed over time through continued use. It involves applying a set of principles to the investigation process. This will enable investigators to develop a disciplined approach which ensures that the decisions they make are appropriate to the case, are reasonable and can be explained to others.

The investigative mindset, can be broken down into the five following principles, these are:

- Understanding the source of material;
- Planning and preparation;
- Examination;
- Recording and collation;
- Evaluation.

5.3.1 UNDERSTANDING THE SOURCE OF MATERIAL

An understanding of the provenance and characteristics of the source of material is essential in order to conduct an effective examination of it. This will enable investigators to identify any characteristics particular to the source which may determine the way it is examined, eg, whether special measures are available to assist victims and witnesses. For further information on special measures see [3.9 Youth Justice and Criminal Evidence Act 1999](#).

Understanding the nature of the source will assist investigators to determine what the source can contribute to the investigation and to explain its characteristics and relevance to others (See example).

Understanding the Source of Material

Example: When examining CCTV images, investigators should know the camera from which the image was taken, the type of equipment that was used and the timescale of the images (such as, time lapse or continuous loop). They should know the location shown in the image and the area immediately around it so that they can determine where people in the image are coming from and going to. They should identify any blind spots in the area covered by the camera (eg, behind vehicles, in doorways), know the time the image was taken and how these factors relate to the offence being investigated. This information will enable investigators to interpret the material shown in the image accurately, explain the image to others and justify their interpretation of it.

5.3.2 PLANNING AND PREPARATION

Usually the first opportunity to examine a source of material is the only opportunity. The process of scene examination will invariably alter a scene and it is, therefore, important to get it right first time. The recollection that victims and witnesses have of events will fade or become contaminated by versions of events they later hear from others and so it is essential that all of the material they can provide is obtained as early as possible. The same principle applies for many other sources of material.

Careful planning is required to ensure that the examination reveals all the available material that the source can provide. Investigators should work through [Checklist 4](#), and in complex or difficult cases should consider producing a written plan before commencing the examination to ensure that important points are not overlooked.

Checklist 4: Examination of Material

- Set clear objectives for retrieving the material from the source.
- Identify the most appropriate method of carrying out the examination. In some cases there will be legal or policy requirements that govern the method of examination. In other cases there will be technical requirements that must be met.
- Identify the need for specialist equipment or expertise. Some examinations, such as video interviews and the viewing of CCTV tapes require specialist equipment which may have to be booked in advance. In other cases the examination of material may require the use of experts such as forensic scientists or pathologists. Access to specialist equipment and expert support is usually governed by force policy and investigators should familiarise themselves with this when planning the examination.
- Identify the most appropriate location for the examination. In the case of a victim or witness interview this will include consideration of whether the location is suitable and meets the requirements of relevant legislation and *ACPO Investigative Interviewing Guidance* (see genesis@centrex.pnn.police.uk). The examination of other sources may only require that the location is adequate in terms of the volume of material to be examined, the level of security required and the need to house any specialist equipment.

If investigators do not have the necessary knowledge to enable them to draw inferences from the material, they should identify and arrange access to any additional knowledge.

5.3.3 EXAMINATION

The process of examination can be divided into three separate areas. The extent to which any area is relevant to a particular examination is determined by the source and its characteristics. Examination will usually include:

- Account;
- Clarification;
- Challenge.

Account

In interview situations, victims, witnesses and suspects are encouraged to provide an account of their knowledge of, or involvement in, the incident. When examining other sources of material, the account will be interpreted by the person carrying out the examination. For example, an investigator may infer that the offender entered the scene of a burglary through the window because it has been forced open from the outside, or that a person seen in a CCTV image may be the offender because they are wearing a distinctive item of clothing as described by a witness.

Those carrying out such examinations should be in a position to explain their findings or interpretations to others. They should also consider alternative explanations, see [5.7 Hypotheses](#).

The degree of difficulty involved in inferring an account from a source largely depends on the nature of the source, any legal or procedural considerations relating to how the material must be treated, and the level of material that investigators already have. The more material investigators have about a crime, the easier it will be to draw inferences about the contribution a source can make to the investigation.

Where the source of material is a victim, witness or offender, an account should be obtained using the *ACPO Investigative Interviewing Guidance*, see genesis@centrex.pnn.police.uk

Clarification

Having obtained an account from the source, investigators should clarify any inconsistencies or ambiguities that it contains. This may involve testing it against other material already gathered or identifying actions to acquire further material to clarify it. For example, when viewing a CCTV image, the events shown may, on first consideration, appear to verify a witness account of an incident. However, the time shown on the image may be inconsistent with the time of the incident given by witnesses. Testing the accuracy of the clock on the CCTV system that generated the image would lead to material which either confirms or casts doubt on the witness's reliability.

Challenge

Experience shows that even those sources of material which at first appear to be of unquestionable reliability can be wrong, and that material that appears to indicate one thing can later be found to support a totally different interpretation. Investigators should, therefore, continually challenge both the meaning and the reliability of any material they gather. Investigators should treat all material as possibly being wrong and regard all sources of material as potentially misleading. This is summed up by the ABC approach:

- A**ssume nothing;
- B**elieve nothing;
- C**hallenge everything.

Every account should be checked for inconsistency or conflict with other material. Investigators are most likely to be misled because they have not paid attention to detail. Prima facie assumptions should never be made and material should never be accepted without question. Investigators should constantly search for corroboration.

5.3.4 RECORDING AND COLLATION

Before closing the examination of a source of material, investigators should consider the following:

- The records that need to be made of the examination;
- If required, how the source is to be stored;
- The security of the source;
- Access arrangements to the source if it is under third party control.

Where the source is to remain in the control of a third party they should be informed of their responsibilities in relation to the CPIA.

Section 3.5 of the CPIA Code of Practice under Part II of Act, states that any third party in possession of material which may be relevant to an investigation should be informed of the existence of the investigation and invited to retain the material in case they receive a request for its disclosure.

5.3.5 EVALUATION

Evaluation should identify any immediate actions that need to be taken in relation to the source, or the material that was gathered from it. These include actions to test the reliability of the source or the material gathered from it, or any fast track actions that may be needed to secure other material.

5.4 APPLYING THE MINDSET

Applying the investigative mindset to the examination of all sources of material will ensure that:

- The maximum amount of material is gathered;
- Its reliability is tested at the earliest opportunity;
- Immediate action is taken in relation to it;
- Relevant records are made;
- The material is appropriately stored.

The first opportunity to examine a source of material and test its reliability may be the last, in addition where there is an opportunity to gather material early in an investigation it must be taken. To pass up such opportunities may mean that they are lost forever, see [4.2.3 The Material that is Admissible as Evidence](#).

In applying the investigative mindset investigators should be mindful of the limitations in decision making, see [5.2 How Investigators Make Decisions](#). In particular they should guard against being influenced by their first impression of the material. This is particularly true of material gathered from victims, witnesses and suspects in the early stages of an investigation when they may still be traumatised or under stress caused by the commission of the offence. Those who appear to be reluctant to assist, or even hostile, may have useful material which, if dealt with correctly they will share with investigators. Conversely, those who appear compliant or willing may be presenting self-serving versions of events.

Investigators must keep an open mind and be receptive to alternative views or explanations, see [6.5 Witness Strategy](#). Investigators should never rush to premature judgements about the meaning of any material or the reliability of its source. Accepting the material at face value risks overlooking alternative sources of material or alternative interpretations, thereby losing the opportunity to examine them.

The application of the investigative mindset from the outset assists investigators in identifying areas which require development or challenge through further investigative action. It also helps them to make structured and auditable decisions.

5.5 INVESTIGATIVE AND EVIDENTIAL EVALUATION

Material which has been gathered during an investigation should be subjected to a periodical formal evaluation. This will allow the investigator to review the progress of the investigation. Evaluation enables investigators to 'step back' from the rush of investigative action and to consider the investigation in 'slow time'. Even though an investigation may appear to be straight forward, investigators should always be encouraged to take this step back and formally evaluate the material, exploring whether any additional lines of enquiry can be identified and ensuring that all existing lines of enquiry and investigative actions have been pursued and completed. It also allows investigators to review the actions and decisions already taken. This process of evaluation is as relevant to volume crime investigations as it is to more serious or complex investigations.

Investigators must follow a standard model of evaluation as this will enable them to become competent in its use, and allow them to evaluate material in a consistent, structured and auditable format. There are two types of formal evaluation which should be carried out during an investigation. Investigative evaluation should identify:

- What is known;
- What is not known;
- Consistencies;
- Conflicts.

Evidential evaluation should consider:

- The overall strength of the case;
- Whether sufficient evidence exists against the offender to proceed to charge.

In practice both evaluations may be carried out more than once during an investigation using the same method, (For ease of reference these are explained together). During the early stages of an investigation a greater emphasis should be placed on investigative evaluation in order to identify a suspect. Later, and particularly during the suspect management phase of the investigation, the emphasis will shift toward ensuring that an evidentially robust case can be passed to the CPS for prosecution purposes.

In some forces an initial investigative evaluation may be carried out after the initial investigative stage by a crime evaluator. The crime evaluator will determine whether further investigation is required.

Where a large amount of material has been gathered during the investigation, an assessment should be made in a calm and structured environment. Investigators should also consider the use of analysts in serious or complex enquiries, see [6.6 Intelligence Strategy](#).

In all cases investigators must record the outcome of an evaluation. If it is not possible to identify further investigative action and all existing lines of enquiry have been pursued, this should be clearly recorded, see [7.7 Record Keeping](#).

The key differences between investigative and evidential evaluation are that during an investigative evaluation, investigators are free to use **all** available material even though it may not be evidentially admissible. When carrying out an evidential evaluation, investigators need to assess the strength of the case taking into account only the evidentially admissible material, see [5.6 The Evaluation Process](#).

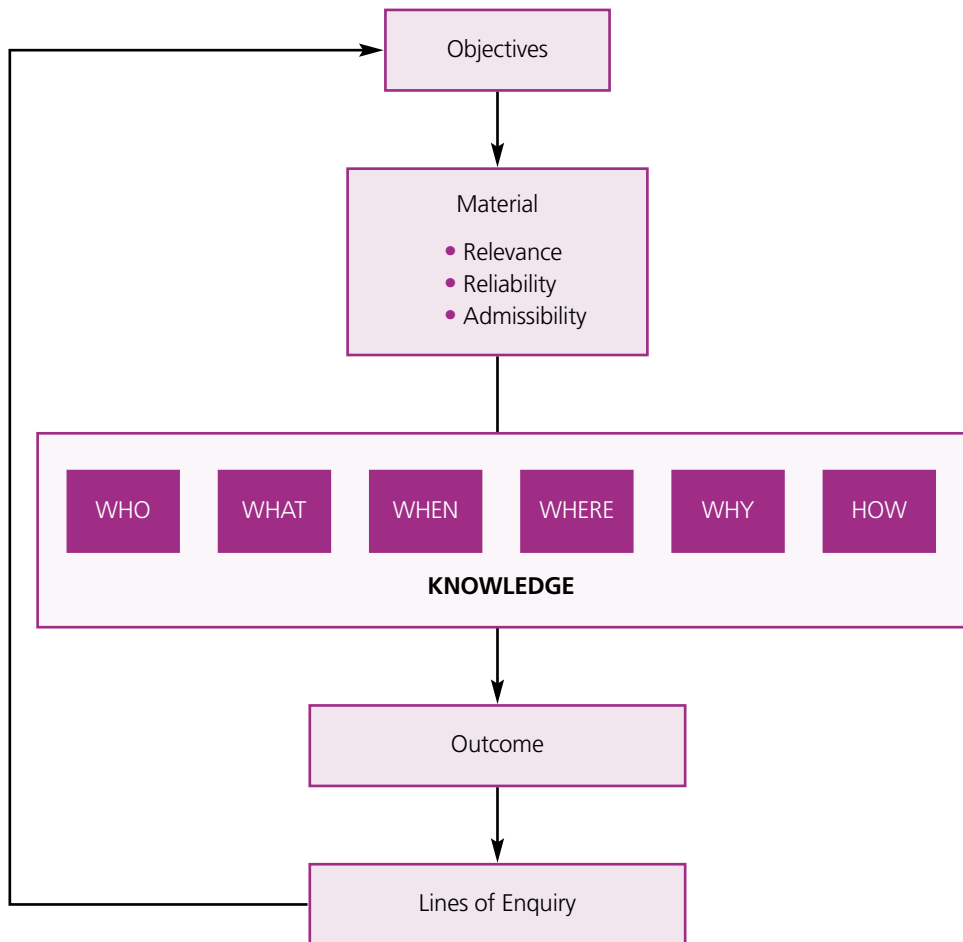
5.6 THE EVALUATION PROCESS

The process of evaluation advocated in this doctrine is shown at [Figure 5 Investigative and Evidential Evaluation](#). It identifies the current objective(s) of the investigation and considers the material when tested against the filters of relevance, reliability and admissibility. The material is then scrutinised in line with the objective(s), to determine what it can tell the investigator. By recording the outcome in a grid matrix, see [Figure 6 Gap Analysis Matrix](#), which is discussed in more detail at [5.6.3 Organising knowledge](#), the investigator will gain an overview of the case showing the areas that require action.

The process of evaluation is explained in more detail under the headings:

- Objectives;
 - Material Filters;
 - Relevance;
 - Reliability;
- Admissibility;
- Organising Knowledge;
- Testing Interpretations;

FIGURE 5 Investigative and Evidential Evaluation



5.6.1 OBJECTIVES

An investigator must be clear about the objective that is to be achieved when carrying out an evaluation. In the early stages of an investigation, the objectives are likely to be broad and concerned with establishing issues such as:

- Has a crime has been committed?
- Who is the victim?
- Are there any witnesses?
- Where or what is the scene?
- Can a suspect be identified?
- What material can be gathered?

As the investigation progresses, these objectives will narrow. During the course of the investigation various objectives will be achieved and not reviewed every time an investigative or evidential evaluation is carried out. For example, whether a crime has been committed and the type of crime are likely to be established early in the investigation, and the objective may narrow to questions such as:

- Can a suspect be placed at the scene at the time the crime was committed?
- Can a suspect's alibi be corroborated?

The objective will vary depending on the crime, the available material and the stage of the investigation. The evaluation process is sufficiently flexible to accommodate such changes in the objectives.

5.6.2 MATERIAL FILTERS

The term material has been defined in [4.1 Material](#). When carrying out an investigative or evidential evaluation, the relevance, reliability and admissibility of the material gathered should be established first.

Relevance

The CPIA Code of Practice states that:

'Material may be relevant to an investigation if it appears to an investigator, the officer in charge of an investigation, or to the disclosure officer, that it has some bearing on any offence under investigation or any person being investigated, or on the surrounding circumstances of the case, unless it is incapable of having an impact on the case.'

In light of this a wide view should be taken of the term relevance and as much material as possible should be used in the evaluation process. Investigators should only exclude material as irrelevant after careful consideration or consultation with the disclosure officer (where this role is being carried out by a separate investigator) or a crown prosecutor (who has ultimate responsibility to decide what material will be used in the case). If in doubt investigators should always err on the side of caution as a decision to exclude material as irrelevant may later be called into question in any subsequent proceedings. For further information see [Part I of the CPIA](#) and the [Joint Operational Instructions for the Disclosure of Unused Material](#).

Reliability

Through the use of the investigative mindset, the reliability of material should already have been established. It is, however, prudent that the reliability of material should be reviewed during the evaluation process to ensure that any potential problems have not been overlooked.

Where sources of material are victims, witnesses or suspects, investigators must avoid making judgments about the reliability of the material they produce based on factors such as lifestyle, previous offending history or associates, as these may not be relevant to the investigation in hand. Such factors clearly have the potential to adversely affect the quality of the evaluation. Investigators should always look for independent corroboration of the account provided by the source, which will increase the weight that can be given to it. Where the source of material is a suspect, investigators should keep in mind the revised rules on bad character introduced by the CJA, whereby in certain circumstances previous offending behaviour may be relevant to the current investigation, see [6.11.10 Suspect Interviews](#).

If a victim or witness account cannot be independently corroborated, the prosecution or the defence may challenge the reliability of their evidence when it is presented in court. Investigators should anticipate such challenges and consider providing alternative material which may help the court to assess the reliability of the source. This may include evidence of character, or evidence that the source has been consistent in their account over a period of time.

Investigators should have a clear understanding of the impact the reliability of material may have on the investigation and the strength of the prosecution case. If they are in any doubt they should consult a crown prosecutor for advice.

A clear understanding of the reliability of the material will enable investigators to determine the weight they should give to it in the evaluation. The following may assist investigators to determine the appropriate weight a piece of material should be given:

- Material that can be corroborated by an independent source of material will have high reliability;
- Material that can only be corroborated by a person such as a spouse or other relative will have less reliability;
- Material that cannot be corroborated and conflicts with other material gathered in the investigation, will have less reliability;
- Material indicating other factors which may cast doubt on reliability of the material, see [3.2 Best Evidence](#).

Admissibility

When investigators carry out an evidential evaluation they should apply the additional test of admissibility. This will help to ensure that the maximum amount of material will be available to the courts in an evidentially acceptable format.

Following the introduction of statutory charging, the decision whether or not to charge a suspect now largely falls on the CPS, see [3.6.3 Charging Standards](#). Investigators should, therefore, work closely with the crown prosecutor to determine what constitutes an acceptable evidential format in relation to any material. Forethought and planning will maximise the amount of material that will be accepted as evidence.

5.6.3 ORGANISING KNOWLEDGE

Material gathered by investigators provides them with knowledge of the incident they are investigating. This material usually consists of many types, and may include victim and witness statements, exhibits and images, intelligence reports, lists of active offenders in the area and forensic science reports. Investigators will gain knowledge of an offence from this material. The evaluation process will help them to organise their knowledge so that they can identify what action is needed next. How they organise this knowledge of the offence will, to a large extent, depend on the objective they are seeking to achieve.

In the first instance the objective is likely to be broad and concerned with establishing what information there is, what type of incident is being investigated, whether or not a crime has been committed and if there is a suspect. The 5WH formula (Who – What – When – Where – Why – How) has been found to be a highly effective way in which investigators can organise their knowledge in the early stages of an investigation.

Identifying gaps in their knowledge of an offence and potential lines of enquiry may be a reasonably straight forward matter for the experienced investigator. Gaps may also flow naturally from the initial investigation by applying the investigative mindset.

It may not always be clear, however, exactly what the investigator is missing. By applying the 5WH formula to the material, investigators can pinpoint specific gaps in the case which may suggest potential lines of enquiry.

- **Who** are the victim(s), witnesses, and suspect(s)? Is there a physical description or other evidence which may assist in identifying the suspect? Are there any characteristics of the victim which suggest a possible offender, race, age, particular vulnerabilities?
- **Where** did the offence take place? Is there any evidence of selectivity? Does there appear to be an element of planning or does either the location and/or the victim appear to be random? Are there characteristics of the location that may be significant, eg, sheltered housing or vulnerable commercial premises?
- **What** has occurred – (It is important to establish what has happened. This may be immediately obvious, but in some cases the investigator will have to piece together the available material by locating witnesses, interviewing victims and suspects, developing intelligence or building reasonable hypotheses.) what was stolen? Were any tools or special techniques used?
- **When** did the offence and other significant events take place?
- **Why** was this offence committed in this location against this victim at this time?
- **How** was the offence committed? Assess the use of skills or knowledge used by the offender.

This list is not exhaustive but illustrates the way in which the material can be ordered.

Figure 6 Gap Analysis Matrix may assist investigators to organise the material available to them and identify areas which require further investigation. It will also highlight conflicts and inconsistencies in the material, thereby allowing the investigator to pre-empt any evidential problems which may arise later.

Subsequent evaluations will replace the broad objectives (eg, who, where, what) with more specific objectives, such as identifying the suspect. The way in which investigators then choose to organise their knowledge will change to match this more specific objective, eg:

- **Description** – does the individual fall within the suspect parameters?
- **Availability** – was the individual available to commit the offence within the time parameters?
- **Physical** links – can the individual be linked to the crime through articles removed from or left at the scene?
- **Forensic** links – can the individual be linked to the crime through forensic science techniques?
- **Identification** links – can the individual be linked to the crime through victim or witness identification?
- **Intelligence** links – is there intelligence linking the individual to the crime?
- **Behavioural** links – is there anything about the individual's previous behaviour that may link them to the crime?

The factors used to organise knowledge will change depending on the objective and the unique circumstances of the crime. By organising knowledge in a rigorous and systematic fashion, investigators will ensure that they extract the optimum information from it.

FIGURE 6 Gap Analysis Matrix

	What is Known	What is not Known	Conflicts	Consistencies
WHO				
WHAT				
WHEN				
WHERE				
WHY				
HOW				

5.6.4 TESTING INTERPRETATION

Subjecting the material to an evaluation will identify what is known and what is not known and what is consistent in the investigation and what is inconsistent. Investigators can use this information to progress the investigation or to improve the amount of evidence available to support a charge.

The material gathered during an investigation may be interpreted in a number of ways. If the investigative mindset has been applied rigorously throughout the investigation, the reliability of the material will already have been checked and its meaning will be as clear as it is possible to be at this stage. Despite these checks, it is likely that the interpretation of some material will be difficult and that the meaning placed on it by investigators may be open to challenge.

There are a number of ways in which investigators can test the validity of the interpretations they put on material.

- **Self review:** Investigators should thoroughly check their work and review any assumptions they have made during the evaluation process;
- **Peer review:** Checks by supervisors or colleagues provide a second opinion on the interpretation of material;
- **Expert review:** Where investigators use material produced by experts such as forensic scientists, they should consult the expert to ensure that the outcome of the evaluation is consistent;
- **Formal review:** In complex cases a formal review of the investigation can be carried out by a suitably qualified officer.

If a case is to go to charge, further checks will arise out of the crown prosecutor's review of the Report to Crown Prosecutor for a Charging Decision (MG3). Early consultation with the crown prosecutor may identify and develop additional lines of enquiry and/or evidential requirements, or any pre-charge procedures. It may also assist in identifying evidentially weak cases that will not be rectified by further investigation, thereby avoiding wasting time and resources.

5.7 HYPOTHESES

Hypothesis is defined 'as a suggested explanation for a group of facts either accepted as a basis for further verification or accepted as likely to be true.'

Collins English Dictionary (2004)

Another way of describing a hypothesis is building a scenario that best explains the available material.

Hypotheses can assist investigators to progress investigations. Before deciding to use hypotheses the investigator must consider the following:

- Has all the available material been gathered?
- Does the investigator understand all the material?
- Are there lines of enquiry which have not yet been pursued and which could generate more material?
- What benefit will the use of a hypothesis bring to the investigation?

The decision to use hypotheses will depend on the amount of material available to the investigator. In general, investigations make progress because the material gathered generates actions, which in turn generates more material. This process continues until sufficient material has been obtained to identify a suspect and support a prosecution. Frequently the link between material and the action that follows is straightforward and does not require an investigator to form hypotheses.

There will be occasions, however, when the amount of material available does not readily identify the action that can be taken to further the investigation. In such cases hypotheses may enable the investigator to regain the momentum of the investigation.

The investigator should apply the investigative mindset to locate, gather and use material. Once this has been done, the material should be evaluated using the investigative and evidential evaluation process, see [5.5 Evidential and Investigative Evaluation](#). This will ensure that investigators fully explore the potential of all the material. It will also indicate if further action is necessary to progress the case.

Hypotheses can also be used to test if the interpretation that has been put on the material gathered is the most reasonable one. Developing alternative hypotheses from the same material may direct further enquiries that help to confirm which interpretation is likely to be true. This is not only useful during the investigation, when it will help guide the investigator's decision making, but it is also a useful way of anticipating the type of interpretations that will be put on material in court.

During the early stages of a case, investigators often have little information they can be certain of. In these circumstances investigators should avoid trying to fill any gaps in the material with hypotheses about what may have happened. Hypotheses that are formed from limited or uncertain information can, at best, only amount to an assumption of what may have occurred and this could be influenced by personal bias or stereotyping.

5.7.1 DEVELOPING HYPOTHESES

Before developing hypotheses, investigators must have sufficient knowledge to make valid judgements. If not, they should seek assistance from colleagues or a supervisor. In serious or complex investigations they may need to request assistance from a Behavioural Investigative Advisor (BIA) from the National Centre for Policing Excellence (NCPE) Operations Helpdesk.

Hypotheses should have a specific objective based on the gap or the conflict in evidence, eg, how did the victim get from home to the scene?

All material relevant to an investigation should be considered and any assumptions or inferences that are made during this process should be explicitly recorded. A hypothesis should be a reasonable interpretation of the material available and should offer the most logical, explanation of the facts as they are known. It is likely, however, that there will be no single most logical explanation, but rather a series of hypotheses, each of which offers an alternative explanation.

Hypotheses are generally improved if they draw on the knowledge of those who have experience in the relevant area.

During the investigation of a burglary a suspect is arrested as a result of fingerprint identification. The suspect answers no questions during interview and is charged with the offence. A search of his home at the time of arrest fails to locate the jewellery stolen during the burglary. There is a good description of the jewellery and it should be relatively easy to identify. There is no specific information as to where the jewellery might be and the investigator decides to develop a number of hypotheses as to where material relating to the disposal of the jewellery may be found. These hypotheses may indicate that the suspect:

- Sold the the jewellery to a third party;
- Hid it in an as yet undiscovered place;
- Disposed of it by other means (eg, has thrown it away, traded it or broken it down to make different items);
- Did not commit the burglary alone, or;
- That the victim is exaggerating their loss.

The investigator is seeking to identify additional material or intelligence which would locate the missing jewellery and/or link the suspect or a third party to its disposal.

The above scenarios will generate several potential lines of enquiry which will require further investigation (eg, enquiries with relatives or associates, visits to second hand dealers or jewellers, tasking CHIS and/or accessing intelligence systems), and which may or may not identify additional material to assist the investigation.

5.7.2 TESTING HYPOTHESES

The purpose of developing hypotheses is to enable investigators to seek further material or to test an interpretation put on material. By acquiring further material one particular hypothesis may be shown to be correct.

The material gathered as a consequence of a single hypothesis can provide positive reasons to discount all others. In the previous example, in [5.7.1 Developing Hypotheses](#), confirmation that the jewellery was sold in the car boot sale will discount all of the other hypotheses. In other cases it may be possible to discount a single hypothesis without establishing how the jewellery was disposed of. For example, if all of the local second hand dealers have credible records and CCTV which does not show the offender selling the jewellery, this method of disposal can be discounted. This does not, however, explain how the jewellery was disposed of, but may at least discount one explanation and allow effort to be focused elsewhere.

Making judgements about hypotheses can be difficult. The decision that the local second hand-dealers were not used to dispose of the jewellery relies on the records they keep. There could be another method of disposal that the investigator did not think of. For this reason, hypotheses should only be used when absolutely necessary. They should be based on known facts and stated assumptions, and should only be made by those with knowledge of the relevant risks. They should be constantly reviewed and where they concern a vital element of the investigation must be thoroughly and regularly reviewed by an independent investigator, or a supervisor.

Checklist 5: Building Hypotheses

Considerations that have to be met when building hypotheses:

- Ensuring a thorough understanding of the relevance and reliability of all material gathered;
- Ensuring that the investigative and evidential test has been applied to all the material gathered in the investigation;
- Ensuring there is sufficient knowledge of the subject matter to interpret the material correctly;
- Defining a clear objective for the hypothesis;
- Developing hypotheses that 'best fit' with the known material;
- Consulting with colleagues and experts to formulate hypotheses;
- Ensuring sufficient resources are available to develop or test the hypotheses;
- Ensuring that hypotheses building is proportionate to the seriousness of the offence.

5.8 DECISION SUPPORT

Support for investigators is available both internally and externally to the Police Service. Supervisors and mentors, colleagues, accident investigators, crime scene examiners, managers, interviewers and interview advisors are all internal sources. Forensic science staff and scientists are examples of external sources.

Force crime review teams can provide information and circulate good practice in person to individuals, and throughout the organisation to assist with informed decision making.

Support for investigation decision making is also available from the NCPE Operations Helpdesk which provides access to investigative data and expert advice. It also provides personal support and advice to investigators, including advice and guidance in serious crime investigations, such as murder, rape, abduction and series sex offences. This support and advice is provided via a 24 hour helpdesk.

Available Support:

Support Officers – who can assist the SIO in identifying particular needs of the investigation, ensuring the correct structure of support is provided, identifying relevant expertise or specialist assistance, suggest interview strategies, scientific or analytical services, assist in identifying behavioural aspects of the offence/and offender behaviour;

Full Support Team Provision – can include provision of SIOs with relevant experience, support officer, psychologist, forensic scientist, pathologist and other relevant experts capable of assisting the SIO;

Physical Evidence Unit – headed by a senior forensic scientist who can provide advice and assistance on all scientific issues and provision of a forensic overview of cases;

Behavioural Investigative Advisors (BIA) – the section employs three full time BIAs and a forensic clinical psychologist, the helpdesk also maintains a list of ACPO accredited BIAs who can be called upon to assist SIOs;

Geographic Profilers – in cases of serial violent offending geographic profiling can determine the probable location where an offender resides or works. This is an analysis based geographic profiling focus that assists in determining the search parameters that an investigating officer may need to determine;

Investigative Databases – The Serious Crime Analysis Section (SCAS), National Injuries Database, Catchem, BADMAN, are investigative databases which can be accessed through the NCPE Operations Helpdesk.

For contact details of the NCPE Operations Helpdesk, see [Appendix 3](#).

Genesis Helpdesk – Provides information on operational issues, training opportunities, policies, potential solutions, advisers and good practice that can be accessed by investigators. When planning an operational initiative this is a useful information point which could assist investigators to determine their investigative strategies and assist in decision making. The database utilises web based technology to enable investigators to access information and provides for secure electronic communications.

For contact details of the Genesis Helpdesk, see [Appendix 3](#).

Incident Management Team – encompasses work within three separate areas;

- 1 The management of large scale disasters,
- 2 Firearms incidents and searching,
- 3 The management of public order situations.

The incident management team attend major incidents and sieges of national importance in order to identify good practice and problematic issues that affect deployment, scene management, incident management, strategic and tactical logistics, planning and other areas of good practice and tactical advice.

For contact details of the Incident Management Team, see [Appendix 3](#).

Home Office RDS Directorate – This unit works in close conjunction with the NCPE and the ACPO Crime Committee and have developed an enhanced programme of research to help improve the ability of the Police Service to deal with problems associated with serious crime and all other investigations;

The RDS Directorate have an ongoing research programme into a range of projects with the aims of identifying and conducting research that will help to reduce the impact of serious crime in the UK. The results are distributed to the Police Service through the NCPE Operations Centre, training and development and through RDS publications.

Publications are available which provide valuable assistance to investigators and assist with their development and understanding of the investigative processes.

For contact details of the Home Office RDS Directorate, see [Appendix 3](#).

For further information on decision making and policy files see also:

ACPO Murder Investigation Manual;
ACPO Road Death Investigation Manual;
ACPO Manual of Surveillance Standards.

Section 6

INVESTIGATIVE STRATEGIES

This section outlines strategies to assist investigators to structure, plan, conduct and manage an investigation. Each investigation presents its own opportunities and difficulties. The strategies will not, therefore, apply to every investigation and the investigator must determine those that are suitable and proportionate to the individual enquiry. Some of the strategies reflect those already set out in the *Murder Investigation Manual (MIM)*, but can be adapted for use in any type of investigation. The overall plan for an investigation is the responsibility of the investigating officer and investigative strategies provide the means by which the plan is achieved.

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6.1 DEVELOPING AN INVESTIGATIVE STRATEGY

An investigative action can be defined as any activity which, if pursued, is likely to establish significant facts, preserve material or lead to the resolution of the investigation. There are two distinct types of investigative action. The first is a range of actions that are intended as a general trawl for information. These can be undertaken in any investigation irrespective of the circumstances of the case, but are most likely to occur in the early stages of the investigation when the information about the offence is often imprecise. Examples of these activities will include:

- Crime scene examination;
- Victim or witness interviews;
- Media appeal;
- House-to-house;
- Area search;
- Intelligence searches;
- Tasking CHIS.

The second range of actions relate to specific lines of enquiry that have been generated during the investigation. These can occur at any time and include:

- Tracing a named suspect;
- Identifying and locating potential witnesses who require interviewing;
- Pursuing significant information that requires further investigation.

These enquiries differ from the first type because they are evidence specific and some information about the crime is needed in order to identify the most appropriate action.

During the initial investigative phase a range of actions will be conducted. At this point many will be determined by the circumstances of the allegation and will be mainly concerned with:

- Obtaining initial accounts from victim(s) and witnesses;
- Locating and securing material (eg, CCTV footage);
- Identifying and preserving scenes or routes to and from scenes;
- Arresting the offender(s).

Investigators must to consider a number of issues when developing investigative strategies. First and foremost are the legal and ethical considerations relating to the conduct of any investigative action, see [3 The Legal Framework](#). They must also determine the priority and proportionality of the investigative response in accordance with force policies.

To develop an investigative strategy, the investigator must use their knowledge and experience to decide which investigative actions are the most appropriate.

The purpose of the strategy is to:

- Identify a line of enquiry to pursue;
- Determine the objective of pursuing a particular line of enquiry;
- Identify the investigative action(s) necessary to efficiently achieve that objective taking into account resources, priorities and proportionality;
- Conduct the investigative action and gather the maximum amount of material which may generate further lines of enquiry.

The final decision about the appropriate investigative action to undertake must be driven by the investigation, not just by completing a checklist.

6.2 SCENE STRATEGY

The management of a crime scene will impact on the quality, quantity and integrity of the material gathered. The identification of a crime scene is, therefore, a priority for the investigator as it may contain vital material which will influence the outcome of the investigation.

Once investigators have identified a scene, they should apply the investigative mindset to make an initial assessment of its potential to provide material, see [5.3 The Investigative Mindset](#). This assessment and the subsequent formulation of a scene strategy should have due regard to forensic strategy considerations, see [6.3 Forensic Strategy](#). Undue delay or failure to consider forensic issues at this stage may lead to valuable material being contaminated, overlooked or lost. This is usually referred to as the Golden Hour, see [4.2.2 The Material Gathered by the Police](#).

The extent to which investigators are responsible for managing a crime scene and developing crime scene strategies is influenced by the complexity or seriousness of the investigation, and local force policy.

When gathering the material, investigators should liaise with CSIs and managers to ensure that they use the most appropriate method of recovery.

6.2.1 IDENTIFYING SCENES

The crime scene can present itself in a number of ways and may not be immediately obvious to the investigator or initial attending officers. This may include:

- The victim;
- Witnesses;
- Routes to and from the scene;
- The suspect;
- Weapons (including live and spent ammunition);
- The suspect's home address or other premises;
- Vehicles (including boats and caravans);
- Dump sites (including victim, clothing, weapons, or stolen property).

Often the scene of the offence will be relatively easy to identify and should, therefore, be considered a fast track action see [4.4.2 Initial Investigation](#). The victim or witnesses to the offence will usually be able to tell investigators precisely where and how the offence was committed. This will enable investigators to preserve the scene at the earliest opportunity and to recover the best possible material in a manner which preserves its integrity.

6.2.2 SECURING SCENES

The purpose of securing a scene is to maintain the integrity and provenance of any material which may be recovered from it. This simple and important action will reduce the opportunities for the material to become contaminated or inadvertently cross-contaminated, see Locard's Principle.

The techniques of crime scene management are based on 'Locard's Principle' of exchange, which states that:

'Anyone who enters the scene both takes something of the scene with them and leaves something of themselves behind.'

This means that every contact has the potential to leave a trace however minuscule. Such traces are usually:

- Fingerprints;
- DNA;
- Fibres;
- Footwear marks.

These traces provide valuable material that can link a suspect to the crime. The techniques for recovering this material are highly specialised and CSIs have the necessary training and equipment to carry them out.

There are a number of methods that the investigator can use to secure and manage crime scenes. These include:

- Using tape to prevent access to or from the scene;
- Deploying officers to guard the scene (care should be taken to ensure that officers only attend individual scenes in order to prevent cross-contamination);
- Using vehicles as barriers to prevent entry;
- Road blocks to protect wider scenes;
- Temporary fencing;
- Road diversions;
- Ensuring that persons entering the scene are wearing suitable protective clothing to prevent contamination of the scene and to ensure that they are protected from any hazards present;
- Logging those who enter and leave the scene.

The investigator should seek advice from CSIs or other suitably qualified experts to determine the appropriate level and method of protection required. This may include covering or lighting the scene and identifying and protecting access routes to or from the scene.

Risks to the scene which have to be managed include:

- Contamination of the scene by items being taken into or from the scene, or cross-contamination by transference between scenes;
- Damage being caused to the scene or material by exposure to the elements;
- Microbiological activity causing decay to material;
- Animal disturbance;
- The effect of time delay on certain material types.

6.2.3 SCENE EXAMINATION

The recovery of material should only be undertaken by an individual who is trained to perform this role. In some volume crime investigations this may be the initial investigator, CSI or other forensic specialist. If an investigator has any doubts regarding appropriate recovery and preservation techniques, they should obtain advice from a CSI or Crime Scene Manager (CSM).

Scenes should be examined using a structured approach determined by the parameters and requirements of the investigation. This should be specific where required, but flexible enough to allow the facts to become apparent through methodical examination techniques. The scene strategy should be developed in consultation with the forensic management team comprising of the SIO, CSM, Exhibits Officer and Specialist Advisor from the forensic supplier.

The investigator must be conversant with all material that has been recovered from the scene. They need to recognise why it has been recovered and its potential evidential value. In volume crime investigations this may only amount to a few items or exhibits. Advice and guidance regarding exhibit handling and storage can be obtained from CSIs and CSMs. Investigators should be aware of the information a forensic examination can provide. This includes confirming or eliminating the presence of the following at a crime scene or other location:

- Victim(s);
- Suspect(s);
- Weapon(s);
- Substance(s);
- Other object(s).

This is achieved by identifying a range of items:

- Physical (fingerprints or fibres);
- Biological (blood, semen, saliva);
- Chemical (drugs);
- Other substances (firearms discharge residue, glass, petroleum) in or on a crime scene or individual.

Investigators must also understand what scientific examinations cannot achieve.

6.2.4 FURTHER CRIME SCENE CONSIDERATIONS

The *MIM* provides further information which investigators should consider. This includes:

- Prioritising the order of recovery of physical material (eg, blood, fingerprints, hairs, fibres, fluids and documents);
- Ensuring the integrity of all scenes and preventing cross-contamination;
- The need for and frequency of crime scene conferences;
- Which scene should be given priority, in multi-scene investigations;
- Establishing who has examining precedence at the scene eg, CSI, pathologist, biologist, fire investigator or forensic scientists. This must be coordinated by the IO or SIO who will maintain overall responsibility for deciding the order of precedence. They can be assisted by a CSM at an individual scene or a coordinator at a multi-scene investigation.

For further information on Exhibit Management see [7.7.1 Exhibit Management](#).

6.3 FORENSIC STRATEGY

The use of a forensic strategy will enable the investigator to maximise the potential of any material recovered during the crime scene examination phase.

The *MIM* lists the following range of investigative options that can be developed by using forensic examination. They are equally applicable to any investigation.

- Clarification of the circumstances – providing movements of victims and suspects, establishing crime scenes and attack sites, and challenging assumptions.
- Elimination of suspects – through partial DNA or partial palm prints.
- Forensic intelligence – providing potential links at scenes, DNA profiles from body fluids.
- Inceptive evidence – the identification of an unknown person or fact, for example, identification through fingerprints or via DNA deposits.
- Context – once the evidence has been obtained, establishing where it fits in the context of the whole investigation or examinations.
- Clarification of the sequence of events – through, for example, analysis of blood distribution, or the use of fire investigation units.
- Corroboration – including independent confirmation of circumstances, critical fact or witness testimony and evidence of the culpability of a suspect.

The use of forensics may also provide the investigator with information that can be used during interview to test the reliability of an account. It may also assist them in prioritising lines of enquiry or submitting particular items for examination.

The investigator should carefully examine forensic results to determine their meaning. If the significance of the information cannot be established, they should seek advice and clarification from a CSM, forensic liaison or the forensic provider.

In serious or complex investigations the number of items or exhibits may be substantial and will require the appointment of an exhibits officer. The exhibits officer's responsibilities include liaison with CSIs and the forensic science providers to ensure that the recovery, handling, storage and submission of all relevant exhibits are undertaken. The exhibits officer must maintain a close working relationship with the investigating officer to ensure that they are aware of all developments in the investigation. In addition, information concerning submissions and the results of forensic examinations should be brought to the investigating officer's attention.

Additional advice and assistance can be obtained from CSIs, CSMs force forensic advisors and the Forensic Search Advisory Group via the NCPE Operations Helpdesk.

6.4 SEARCH STRATEGY

Most investigations require a search to be conducted. The nature and circumstances of the investigation will indicate the type of search required, together with the number of resources and or specialists needed. The method or methods which the investigators should employ depends on the specific objective of the search and its location.

Searches can be conducted to identify and locate the following sources of material:

- Crime scenes;
- Victims, witnesses or suspects;
- Physical material – weapons, stolen or discarded property, CCTV video tape or other media storage medium, documents;
- Scientific material – biological and chemical eg, fingerprints, blood, semen, saliva, hair, firearms discharge residue, drugs;
- Escape routes;
- Hides, storage or deposit sites;
- Electronic media stored within IT systems or telecommunications equipment;
- Passive data generators such as CCTV.

6.4.1 THE LEGAL POWERS FOR SEARCH

While the majority of searches of premises can only be carried out with consent, investigators will rarely face objections from victims or witnesses. They should, however, be prepared to explain the reasons for carrying out the search if asked.

Investigators should consider the following:

- Is there lawful access to the property?
- Is a search warrant required?
- Do sections 17 and 18 PACE apply?

Records must be made of the:

- Areas searched and the level of intrusion;
- Identification of all individuals conducting the search;
- Search techniques, equipment used and search duration;
- Significant material found at location.

All material recovered during searches should be handled appropriately, labelled and packaged in accordance with force instructions. Where it is not possible to complete a search in one continuous period, consideration should be given to preserving and protecting the scene.

6.4.2 METHODS OF SEARCHING

Search methods employed by investigators vary according to the type of investigation being conducted. All searches, however, must be carried out thoroughly. The method or methods used will depend on the primary objective of the search. The location and subject of the search will also determine the most applicable search method. For example, the search of a known drug dealer's premises may be more intrusive than that of a juvenile shoplifter's house search. The purpose of searches conducted during volume crime investigations will usually be to locate:

- Crime scenes;
- Stolen or abandoned property;
- Suspects;
- Concealed drugs.

The minimum standard required for a search of premises is an 'open door search'. This entails opening all doors and searching all rooms, outhouses, sheds, lofts, cupboards, wardrobes and drawers. Searches of premises can be conducted using the, 'side to side and up and down' method (which entails searching from the ceiling to the floor and from wall to wall). Searching a vehicle requires the 'clean and dirty' approach. This includes an examination of the interior and exterior and areas such as the engine compartment, wheel spaces and boot.

Other types of search include:

'Hasty' Searches

The term hasty is recognised and widely accepted terminology in the field of search and rescue. It should not be construed as lacking in thoroughness or detail and should be part of an initial investigative fast track action.

A hasty search is an initial visual check using available local resources. These searches should be systematic and methodical. A record of the nature and extent of the initial hasty search will assist the formulation of any later search plans.

The purpose of a hasty search is to make a rapid identification of material likely to assist in an investigation. Hasty searches are commonly used as a fast track action during the Golden Hour. Failure to carry out these searches could result in material being lost, damaged or destroyed, to the detriment of the investigation.

Fully Managed Searches

This type of search is intrusive and detailed and is conducted under the direct supervision of a Police Search Advisor (PoISA) using trained personnel. The PoISA is responsible for the conduct and management of the search but staff conducting the search may require to be briefed by the investigator.

Overall management of the investigation is retained by the investigator.

(Officers who attend the Police National Search Centre (PNSC) and receive training in all search-related matters, qualify at the conclusion of this training as a PoISA. They can then advise investigators on all aspects of searching).

6.4.3 SEARCH CONSIDERATIONS

Risk Assessment

The early decisions on the level of searches to be undertaken are subject to a risk assessment governed by the following critical factors:

- The need to preserve life;
- An immediate threat to life;
- Immediate pursuit of a suspect;
- The likelihood of destruction, damage or disposal of material – caused by weather or outside interference with the material;
- The likelihood that recovering the material will lead to a rapid arrest of a suspect.

Prioritising Searches

There are rare occasions when the need to conduct a physical search conflicts with the requirement to conduct a forensic examination. Any physical search will increase the potential risk of contaminating the scene. As a rule the forensic search undertaken by trained specialists should take precedence over the physical search. There will be occasions, however, when the investigator is faced with one or more of the critical factors, see [6.4.3 Search Considerations](#). In these circumstances the search must be conducted in such a manner as to minimise the contamination risk and the rationale recorded. Wherever possible, however, advice should be sought from experts such as a CSI or CSM to identify the most suitable method to employ.

Where it is immediately obvious that the scene represents a serious or major incident and there are no immediate risks to life or the material within the scene, the initial attending officer should secure and protect the scene, request assistance and inform a supervisor or senior officer.

6.4.4 FURTHER ADVICE

Further information and assistance on search techniques and methods, and expert advice can be obtained from the following sources:

- CSIs and CSMs;
- Forensic science liaison staff;
- PolSA;
- Force computer crime specialists;
- Force firearms units;
- Serious Crime Analysis Section (SCAS);
- NCPE Operations Helpdesk (available 24 hours a day and has access to specialist support for investigations including national search advisor, National Injuries Database, geographic profilers, national interview advisor);
- NCPE Guidance on The Management, Recording and Investigation of Missing Persons;
- MIM.

6.5 VICTIM AND WITNESS STRATEGY

Victims and witnesses are a fundamental component of the criminal justice system. They provide the information, intelligence and evidence to investigators which enables offenders to be brought to justice. In order for the system to operate effectively, victims and witnesses must have confidence in the criminal justice process. In turn the system must recognise the needs and concerns of victims and witnesses and provide adequate information, support, protection and reassurance to generate faith and trust in the legal processes.

There is a distinct difference between the terms victim and witness.

- A victim is defined as a person harmed by a crime, tort or other wrong.
- Witness is defined as one, who sees, knows or vouches for something. One who gives testimony under oath or affirmation, in person, by oral or written deposition or by affidavit. A witness must be legally competent to testify.

Black's Law Dictionary (8th Edition 2004)

Despite the difference in definition, all victims are potential witnesses. For the purpose of this strategy all references to witnesses includes victims, unless it is specifically stated to the contrary.

The detection of a large proportion of offences can be attributed to information provided by the public. It is, therefore, important that investigators recognise this and take active steps to identify and locate witnesses at the earliest available opportunity.

Some witnesses may be self-presenting or self-evident, other witnesses may be more difficult to identify or locate. Investigators should consider a variety of techniques to identify and locate witnesses, which may include:

- Viewing CCTV;
- Media appeals, see [6.9.2 Media Strategy](#);
- House-to-house enquiries;
- Interviews with victims and other witnesses;
- Suspect interviews;
- Anniversary appeals.

The success of any investigation is largely dependent on the quality of material that is obtained from victims, witnesses and suspects. *The NCPE Practical Guide to Investigative Interviewing* states:

‘A major source of material in police investigations comes from interviews with victims and witnesses. This should be accurate and in as much detail as possible. It is the information provided by witnesses and victims that may enable you to validate or challenge a suspect’s version of events.’

Witnesses will be interviewed in accordance with the PEACE model of interviewing contained in the *ACPO Investigative Interviewing Strategy* and the *NCPE Practical Guide to Investigative Interviewing*.

The manner in which investigators approach witnesses from the point of initial contact, during interviews and through to the conclusion of any subsequent prosecution case can have a significant bearing on their perceptions of how the criminal justice system operates. Inappropriate or ill-considered methods of dealing with the witness may hamper the investigation and delay or prevent the supply of relevant material which would assist the investigator.

6.5.1 FAST TRACK INTERVIEWS

There may be occasions when it is necessary to conduct a fast track interview with a witness who possesses material which is likely to rapidly progress the investigation and can result in:

- The early identification or arrest of a suspect;
- The recovery of material connected with the offence;
- Preventing the imminent disposal or destruction of material connected with the investigation;
- Preventing the commission of other offences.

In these circumstances the investigator has to consider the immediate needs of the witness who may require medical attention or the presence of a suitable adult. Common sense has to be applied and the interview should be limited to obtaining sufficient information to immediately progress the enquiry. The circumstances surrounding the fast track interview should be recorded and permission obtained from medical staff if the witness is receiving non-urgent attention.

Invariably volume crime investigations will not require an explicit strategy. Nevertheless all investigators should be aware of the anxiety and misapprehension that witnesses may feel when they are exposed to the criminal justice processes. For many, this will be the only time in their lives that they have been a victim or witness and they may not understand how the criminal justice system operates. They will require reassurance and information throughout the process. Investigators, whether tasked with a volume crime or major investigation, must recognise the individual needs and concerns of witnesses.

6.5.2 CONDUCTING AN INITIAL RISK ASSESSMENT

Risk assessment commences the moment that the circumstances of the crime are notified to the police and should continue throughout the investigation. The potential risks should be established and decisions made on how to minimise and manage them. Some of the early risk assessment can be conducted by the call taker who should do the following:

- Prioritise the safety of the witness by providing safety, first aid or other advice if appropriate;
- Keep the victim fully updated of the deployment of officers;
- If the suspect is still present at the scene, keep the caller on the line as any background noise from a 999 call will automatically be recorded and can be used as evidence as well as a means of monitoring the incident;
- If the suspect has left the scene, advise the caller to lock and secure the premises and to return to the telephone. Obtain a full description of the suspect and circulate it to officers in the area.

The information provided can be passed to the initial investigators so that they are fully informed and can continue assessing the risk on arrival at the scene. Risks can include any or all of the following:

- The physical health and welfare of the victim or witnesses;
- The suspect(s) who may still be present or in the vicinity and posing a threat;
- Forensic or other relevant material which may be disposed of, destroyed or damaged;
- Risk to other potential victims or witnesses caused by the commission of further offences.

Having identified potential risks, investigators have to manage them. In the early stages of the investigation this action may include:

- Providing first aid or access to medical treatment;
- Providing security and protection.

The initial management of these risks will depend on the scale and complexity of the investigation. In simple cases these risks will be managed by one officer.

Investigators should establish a working relationship with victims and witnesses that recognises and understands their diverse social, cultural and religious needs. They may be shocked or traumatised by events and have a genuine fear of the consequences of providing information. Although investigators need to provide adequate support, there will be circumstances when it will be appropriate to obtain an early account to enable the investigation to progress. By adopting a calm reassuring interview style, investigators can establish the main points of what victims and witnesses know about the incident. Suitable care and support can then be provided prior to an in-depth interview, see [6.5.7 Witness Welfare](#).

6.5.3 WITNESS ASSESSMENT

The investigator is required to make an initial assessment of the witness prior to conducting any interview. This assessment is necessary in order to determine whether the witness can be categorised as being:

- Vulnerable by reason of
 - age
 - mental disorder
 - significant impairment of intelligence and social functioning
 - physical disability
 - physical disorder;

- Intimidated by reason of
 - age
 - social, cultural or ethnic background
 - domestic and employment circumstances
 - religious beliefs
 - political opinions
 - behaviour towards the witness on the part of the accused, members of the accused's family or associates of the accused
 - any other person who is likely to be an accused or witness in the proceedings.

It should be noted that the provision for video interviewing intimidated witnesses contained in section 17 of the Youth Justice and Criminal Evidence Act 1999, has not yet been implemented.

The *JOPJ* contains advice and guidance for investigators tasked with interviewing vulnerable and intimidated witnesses. It also provides advice on conducting the witness assessment, and this should include their:

- Availability to attend court;
- Need for special assistance;
- Need for support as a vulnerable or intimidated witness.

In addition the assessment should include details of any information provided to the witness under local agreements.

Further guidance on special measures and witness care for vulnerable and intimidated witnesses is contained in *Achieving Best Evidence*, available at: www.cps.gov.uk/CPSpublications/scheme/bestevide.htm

Key or significant witnesses are defined in the *ACPO MIM* as those who:

'...may have been, or claim to have been, an eye witness to the immediate event in some other way; or the witness stands in a particular relationship to the victim or have a central position in the enquiry.'

The video recording of key or significant witness interviews should be considered in cases of:

- Murder;
- Manslaughter;
- Road death;
- Serious physical assault (section 18 Offences Against the Persons Act);
- Sexual assault;
- Kidnap;
- Robberies in which firearms are involved;
- Any criminal attempts or conspiracies in relation to the above listed offences.

If a police officer has witnessed any of the above offences, then they should also be considered to be a significant witness.

An investigator can also consider video or audio recording significant witness interviews in any other serious case where it may be helpful to the case. For further information and guidance on conducting interviews with key or significant witnesses see *ACPO Investigative Interviewing Guidance*.

6.5.4 WITNESS SUPPORT

Invariably all witnesses will require a degree of support during any investigation. In some circumstances this support may be provided by verbal reassurances from the investigator, family members or close friends in accordance with the Victim's Charter. In more serious investigations support may also be provided by deploying specially trained officers. There are also a number of community and charitable organisations that provide valuable services to witnesses. Their services can assist the investigator to support a witness and include:

- Family Liaison Officers (FLO);
- Sexual Offence Liaison Officers (SOLO/STO);
- Domestic violence officers and coordinators;
- Victim support schemes – including the Witness Service;
- Sexual assault referral centres (SARC);
- Social services;
- Health service;
- Race equality councils;
- Gay and lesbian support groups;
- Religious organisations or groups.

Investigators must recognise the impact that being a witness to a crime or event can have on an individual. They may feel shocked, traumatised, vulnerable or intimidated by the experience. Adopting a calm reassuring approach and providing information about organisations that give support can assist in alleviating anxiety and fear. As the case progresses the witness may receive additional help and support from the Witness Service which is run by volunteers from Victim Support. They can offer:

- Information on what takes place at court;
- Emotional support and confidential advice;
- A familiarisation visit to the court;
- Court room support for the witness.

Other useful information is contained on the following websites:

www.homeoffice.gov.ukjustice/victims

www.cjsonline.gov.uk

www.victimsofcrime.org

www.victimagainstcrime.com

6.5.5 VICTIM/WITNESS AS A SCENE

In cases of physical or sexual assault the investigator has an early opportunity to obtain material from the victim or their clothing. This material may include body fluids or other cellular or fibre transfers. In such cases the investigator must balance the victim's medical and welfare needs with the recovery of uncontaminated material. The victim may not recognise or understand the significance of the requests for this material. Wherever practicable, assistance from specially trained officers and the availability of specialist centres will enable the investigator to recover material, while ensuring that victims receive appropriate support and counselling.

The investigator and the specialist officer need to maintain close contact. This can be achieved by regular meetings to brief and debrief each other. If a specialist officer is deployed to assist an investigator an accurate record must be maintained on the crime report, policy log or file outlining the specific role of the specialist officer.

Investigators must recognise that police officers who are witnesses are not immune to similar fears and anxieties, especially when they are witnesses to traumatic or unusual events. Force welfare departments can be contacted to provide advice and guidance to officers in these circumstances.

In the majority of cases investigators can support witnesses by providing relevant information about the progress of the investigation and any significant developments. Witnesses should be provided with the following details:

- The name of the investigating officer;
- Contact details for the investigating officer;
- Crime or incident reference number.

When a suspect is identified or arrested, the witness should be informed and kept updated about court appearances and whether remands are in custody or on bail. If on bail, the witness should be made aware of any conditions that have been imposed.

The Victim Personal Statement can be used to inform the prosecution about the impact of the offence on the victim's life.

The purpose of the Victim Personal Statement Scheme is to:

- Provide a means by which a victim may make known their legitimate interests, such as their wish to receive information about case progress; to express concerns about intimidation or the alleged offender being granted bail; their wish to seek compensation or to request referral to Victim Support or other help agencies;
- Give victims the chance to tell the criminal justice agencies and services dealing with their cases how the crimes have affected them – physically, emotionally, psychologically, financially, or in any other way;
- Provide the criminal justice agencies with a ready source of information on how the particular crime has affected the victim, supplementing other sources of information, for example, MG19 regarding compensation, or the confidential information form, MG6.

Home Office The Victim Personal Statement Scheme – A Guide For Investigators

Further sources of information on witness support can be obtained from the following websites: www.cjsonline.org and www.cps.gov.uk

Further information on support available to victims can be obtained from the following sources:

- *ACPO Murder Investigation Manual*;
- *NCPE Guidance on Investigating Domestic Violence*;
- Home Office Publications;
 - *A New Deal for Victims and Witnesses*,
 - *The Victim Perspective: Ensuring the Victim Matters*,
 - *Coping with Grief When Somebody Close Has Been Killed*,
 - *RV Snapshot: UK Policing and Repeat Victimisation*.

6.5.6 WITNESS INTERVIEWING

Interviews are a means by which an investigator can both obtain and impart information. The investigator must establish trust with the interviewee. Many witnesses fear the consequences of providing information. They must, therefore, trust the competence of the investigator to deal appropriately with the information they provide. If they have confidence in the interviewer they are more likely to provide them with a full and accurate account. Witnesses have a right to expect that they will be listened to and will receive fair treatment.

ACPO Investigative Interviewing Guidance and the *NCPE Practical Guide to Investigative Interviewing* provide information and practical advice to investigators in relation to all aspects of investigative interviewing.

The PEACE model is the nationally accepted method of interviewing victims, witnesses and suspects. PEACE stands for:

- P** – Planning and Preparation;
- E** – Engage and Explain;
- A** – Account Clarification and Challenge;
- C** – Closure;
- E** – Evaluation.

The skills needed by investigators using the PEACE model are as follows.

- Planning and preparation – assembling the facts, knowledge of the location and circumstances of the offence, knowledge of the interviewee if practical, being methodical, legal knowledge and considering the timing, duration and location to conduct the interview. Selection of the Interviewer and timing of breaks.
- Establishing a rapport – considering how to approach the interviewee, being aware of their needs, culture and background, language, displaying flexibility, approachability, not prejudging, avoiding being over officious and personal bias.
- Listening skills – developing the ability to listen actively, displaying empathy, consideration and tolerance. Using silence to obtain further information.
- Questioning skills – asking the right questions at the right time, use of appropriate language and perseverance.

The *NCPE Practical Guide to Investigative Interviewing* also defines the different tiers of interviewers who have received specialist training on interviewing specific categories of witness. These officers can assist investigators to plan, conduct and manage the interviewing process, thereby obtaining the best possible evidence.

Home Office Circular 22/1992 lists the seven principles of investigative interviewing. Investigators should adhere to these principles to ensure any evidence obtained during an interview is admissible in any subsequent proceedings. The seven principles are listed below.

- 1** The role of investigative interviewing is to obtain accurate and reliable information from suspects, witnesses and victims in order to discover the truth about matters under police investigation.
- 2** Investigative interviewing should be approached with an open mind. Information obtained from the person should always be tested against what the interviewing officer already knows or what can reasonably be established.
- 3** When questioning anyone a police officer must act fairly in the circumstances of each individual case.
- 4** The police interviewer is not bound to accept the first answer given. Questioning is not unfair merely because it is persistent.
- 5** Even when the suspect exercises the right of silence the police still have a right to put questions.
- 6** When conducting an interview, police officers are free to ask questions in order to establish the truth, they are not constrained by the rules applied to lawyers in court, except where interviews with child victims of sexual or violent abuse are to be used in criminal proceedings.
- 7** Vulnerable people whether victims, witnesses or suspects must be treated with particular consideration at all times.

The interview process should not conclude on provision of the necessary account or statement. Investigators should maintain a professional relationship with the witness throughout the duration of the investigation, keeping them updated of its progress. This should include:

- What will happen during the investigation even where the matter remains undetected?
- What will occur if an offender is arrested and pleads guilty or not guilty?
- Contact details of the officer in charge of the investigation and any known reference numbers (eg, crime number).

6.5.7 WELFARE ISSUES

Investigators tasked with interviewing a witness should consider the welfare needs of the witness throughout. Factors to consider in this are:

- Age and mental capacity of the witness – legal requirements dictate how material can be obtained from individuals;
- The emotional health and welfare of the witness;
- The language skills of the witness, interpreters should be used in accordance with ACPO policy and local guidelines;
- How to prevent further offences from occurring such as intimidation.

Third party support may be beneficial to some witnesses, provided that they are unconnected with the investigation.

6.5.8 WITNESS PROTECTION

Where intimidation of the witness may occur, investigators working in conjunction with the CPS can develop a witness care strategy designed to protect the witness from intimidation or harassment. This can include protecting the identity of the witnesses during the investigation, the early stages of the prosecution process and, in certain exceptional circumstances, through the trial itself.

There are a range of local measures which investigators can employ to improve security and provide protection. These include:

- The provision of a 'Homelink' alarm system;
- Upgrading security at the home address;
- Temporary relocation;
- Entries on briefing and intelligence systems.

Investigators can obtain assistance with these interim measures from local crime reduction advisors and community beat officers. Some local authorities also provide access to resources to assist with witness protection issues.

Further information and advice on witness protection issues can be obtained from Force Witness Protection Units and *ACPO Guidelines on Vulnerable and Intimidated Witnesses*.

6.5.9 WITNESSES WHO REFUSE TO MAKE STATEMENTS

Investigators should bring to the attention of the CPS details of any witnesses who have been interviewed and who have refused to make a statement. The investigator should outline the details of the material the witness has provided and copies of any notes made or statements compiled which the witness has refused to sign. The investigator should provide the CPS with all the information provided by the witness which may account for their refusal to provide a statement. This may become crucial if the witness is later called as a defence witness.

6.5.10 RELUCTANT WITNESS PROCEDURES

Where a witness has been interviewed during an investigation and the investigator has been made aware that the witness is reluctant to attend court to give evidence, early liaison with the CPS may enable the prosecutor to apply for a witness summons, prior to the commencement of the proceedings, to secure their attendance. The No Witness, No Justice care project is creating joint CPS and police Witness Care Units (WCU) which should be operative in all criminal justice areas by mid 2005. WCUs will be responsible in conjunction with the investigator for pre-empting witness non-attendance.

6.5.11 FURTHER ADVICE

Further information and practical advice for the investigator in relation to all aspects of witness issues are available within the *JOPI*. This document is available online at www.homeoffice.gov.uk

Guidance notes for the provision of therapy for child witnesses can be found on the CPS website at www.cps.gov.uk

6.6 INTELLIGENCE STRATEGY

There is usually no necessity for the investigator to specifically set an intelligence strategy in volume crime investigations. The force and local tasking and coordination processes will have defined intelligence requirements based on the strategic assessments as set out in the NIM. The intelligence strategy will direct the sourcing and collection of all information relevant to the investigation. Volume crime investigators should be aware of the intelligence sources available to them at local and force level, and how they can be used to assist to develop intelligence. These sources include field intelligence officers, crime analysts, community beat officers, source management units and IT systems. In major and serious investigations the creation of an intelligence cell could be considered. Information and advice regarding intelligence cells is contained within the *ACPO MIM* and *MIRSAP* manuals.

Investigators must know what sources of intelligence are available to them and how those sources can be tasked and used. The intelligence strategy will focus on the collection and development of material that will assist the investigation. Additionally, investigators have to recognise that every investigation is unique and potentially generates intelligence which can be used in other policing activities.

6.6.1 INTELLIGENCE SOURCES

There are many sources of information available to the investigator. Access to some of these sources is freely available, while access to others is controlled by legislation. As a result, deployment of them depends on the nature and complexity of the investigation and the necessity and proportionality of their use. For further information on the legislation covering the use and deployment of intelligence sources, see [3.10 Regulation of Investigatory Powers Act 2000](#). Investigators should take advantage of all intelligence sources throughout the course of any investigation. In some investigations developing intelligence will be considered as a fast track action.

Intelligence sources can include:

- Police National Computer (PNC), including QUEST and VODS, National Automated Fingerprint Identification System (NAFIS);
- Local intelligence databases, eg, force computerised incident handling systems, crime recording systems, force and local intelligence systems, Police Informant Management System (PIMS);
- Automated billing systems;
- Covert listening devices, probes and tracking devices;
- Human Intelligence sources including, victims, witnesses, suspects, colleagues such as local and field intelligence officers, community sources including community and race advisors, local councillors, religious leaders and the members of the community;
- Covert Human Intelligence Sources (CHIS) and undercover officers;
- Physical evidence sources such as information about physical conditions obtained from the scene of a crime.

6.6.2 INTELLIGENCE EVALUATION

Information from intelligence sources is subject to evaluation to check its reliability before being recorded in intelligence systems. Evaluation must not be influenced by personal feelings but must be based on professional judgement. Its value must not be exaggerated in order to ensure action is taken. Investigators recording intelligence on reports are personally responsible for ensuring the accuracy and unbiased evaluation of the material based upon their knowledge of the circumstances prevailing at the time. Each piece of intelligence should be separately evaluated using the 5x5x5 system. Intelligence material is subject to the rules of disclosure outlined within the CPIA. Further information and advice is contained within the *ACPO/Her Majesty's Customs and Excise (HMCE) Manual of Standards for Recording and Dissemination of Intelligence Material*.

6.6.3 ANALYTICAL SUPPORT

Once material has been collected and evaluated its interpretation and assessment should be undertaken by a trained analyst. The analyst will be able to identify information gaps and any material which requires corroboration. This process will assist the development of an intelligence strategy, and enable the investigator to continually review the progress of the investigation. This will include:

- Assessing the progress of lines of enquiry;
- Identifying new lines of enquiry to be pursued;
- Identifying specific elements of the enquiry which would benefit from further development.

6.6.4 STANDARD ANALYTICAL PRODUCTS

The effective tasking of the analyst requires the investigator to have a basic understanding of the techniques used by the analyst. The analytical product will depend on the initial tasking and will make use of the standard analytical techniques as defined in the NIM such as Crime Pattern Analysis and Network Analysis. In major and serious investigations techniques might also include Comparative Case Analysis and Incident Analysis.

The product will be in the form of a written report or briefing and will identify key findings, intelligence gaps and make recommendations to the investigator based on the analysis. It may be supported graphically by a chart or map.

For further information on the use of analysts within an investigation see the following sections of *MIRSAP: 2, Roles and Responsibilities; 11, The Major Incident Room (MIR) and Covert Policing Cell; and 12, The Linking of Major Incidents*.

6.7 PASSIVE DATA GENERATING STRATEGY

Passive Data Generators are automated systems that gather and collate information for various purposes. These may include:

- Automated security CCTV systems (not including permanently monitored systems);
- Automated billing systems, including banking and telecommunications billing;
- Automated voice recording systems, 999 system, financial and insurance call centres;
- Automated access systems, entry and exit recording systems;
- Customer records, subscriber information.

These systems can generate large quantities of data, which is periodically downloaded, archived or deleted. Fast track action is, therefore, required to ensure that these sources are preserved and retained.

Access to some of the material which these systems generate is governed by legislation such as RIPA or PACE. Additionally, investigators must be aware of the agreed protocols, eg, the Communication Service Providers (CSPs) have agreed protocols which permit investigators to preserve and access call data records. To ensure consistency and conformity with these protocols, identified individuals have been trained and accredited to act as Single Points of Contact (SPoC) for each force. Investigators requiring information and advice about obtaining material from CSPs are advised to make early contact with the SPoC.

Passive data generators can create volumes of material and, when defining the strategy, investigators must consider:

- Whether the request for information is proportionate to the circumstances;
- Precisely what they are seeking to achieve from the material;
- The volume of data that may be generated;
- When the data is provided what they are going to do with it;
- Time considerations – the length of time it will take to produce the data, the format it will be available in, how long will it take to produce, how long will it take the investigators to analyse;
- Resources – the likely costs in financial, human and technical terms;
- Analysis – deciding who will conduct the analysis, whether the investigation has the capacity or capability to be effectively managed, whether the staff are suitably knowledgeable to understand the material;
- The value that the material will add to the investigation.

When access to material created by passive data generators is obtained, investigators must know how that material was created. The integrity and accuracy of this material will have to be demonstrated if it is to be used as evidence. In certain circumstances it may be necessary to seek expert advice or to conduct a forensic examination of the material in order to confirm its authenticity and accuracy.

6.7.1 FURTHER ADVICE

The telecommunications industry changes rapidly. Retail products and the technology that drives them is constantly changing. In developing a telecommunications strategy the investigator should be aware of what material can be provided by the CSP. This will contain details of:

- Time;
- Date;
- Duration;
- Caller identity;
- Receiver identity;
- Location caller or receiver;
- Identify apparatus.

In relation to:

- Voice calls;
- Data calls;
- Fax;
- SMS (text) calls;
- MMS (picture) calls;
- Emails, chat rooms and other IT facilities.

Further advice and guidance for investigators on the retrieval of intelligence that may be held within computers and portable IT systems can be obtained from within force computer and IT units. Information regarding access to banking records can be obtained from force economic units.

Additional information is available on the *ACPO Good Practice Guide for Computer-Based Electronic Evidence* and by accessing the website of the National High-Tech Crime Unit at www.nhtcu.org.htm

6.8 TRACE/INTERVIEW/ELIMINATE STRATEGY

The term Trace/Interview/Eliminate (TIE) is taken from major incident investigation and is described in detail in the *ACPO MIM*. A TIE strategy enables investigators to identify the groups of people who are likely to include the offender. Enquiries can then be conducted to eliminate those who cannot be the offender and to implicate those who can. Further investigative effort can then be focused on those who are implicated, with the intention of identifying the suspect.

The term Trace/Interview/Eliminate first appeared in the *MIRSAP* manual in 1985. Since then some forces have adopted different terminology, eg, Trace/Implicate/Eliminate or Trace/Implicate/Evaluate. These differences in terminology do not affect the procedures to be followed when undertaking TIE enquiries.

6.8.1 CONSTRUCTING A TIE CATEGORY

Investigators who are not familiar with this investigative technique should seek the assistance of more experienced colleagues and supervisors. A TIE strategy can be very resource intensive and unless managed effectively has the potential to incorrectly eliminate the offender.

A TIE category is a group of people sharing a common characteristic which is likely to include the offender. The common characteristic on which the group is based will depend on the circumstances of the crime. TIE categories are typically based on:

- Those with access to the scene at the time of the offence;
- Those living in, or associated with, a certain geographical area;
- Those associated with the victim;
- Those with previous convictions for similar offences (usually known as MO suspects);
- Those with physical characteristics similar to the offender;
- Those with access to certain types of vehicle.

This is not an exhaustive list and the more that is known about the circumstances of the crime, the greater the chance of constructing an accurate TIE category.

6.8.2 POPULATING A TIE CATEGORY

Having decided which groups are likely to include the offender, investigators must identify as many of the members of the group as possible. In some cases this will be known with some degree of certainty. For example, a check of company records which identifies all employees, could create the TIE category of 'those employed in the named premises'. In other cases the exact membership of the group may be difficult to determine, for example, a TIE category for 'those visiting a named premises'. This may be more or less difficult to determine depending on the type of premises, the number of persons visiting and the number of access points.

The following are useful ways of populating TIE categories:

- Official records, such as membership lists, payrolls, electoral registers;
- Police intelligence databases;
- Media appeals;
- 'Snowballing' – this technique involves interviewing known members of a TIE category to identify other members of the group. Like a snowball rolling down hill, this technique can start from a single point gathering additional material as it goes.

Those who populate a TIE category are known as TIE subjects.

6.8.3 PRIORITISING TIE CATEGORIES

Sometimes the population of a TIE category is very large and it is not possible to carry out enquires on each subject. Investigators may simply want to start with those members who are most likely to be the offender. In such cases it is possible to apply a number of filters to the category according to the priorities chosen by the investigator. These filters could include:

- Proximity to the scene;
- Date of last conviction of MO suspects;
- Age (where the age of the suspect is not known, investigators may wish to prioritise those who fall within the most likely age range of offenders for that category of crime);
- Sex (where the sex of the offender is not known, investigators may wish to prioritise those who are of the sex which is most likely to have committed the crime).

6.8.4 SUSPECT PARAMETERS

Suspect parameters are the known characteristics of the offender that can be used to implicate or eliminate those within a TIE category. These can include:

- Sex;
- Age;
- Physical characteristics;
- Fingerprints;
- Forensic characteristics such as DNA, fibres, footmarks;
- Ownership of a particular make or colour of vehicle;
- Ownership of particular clothing.

The value of these characteristics varies. A fingerprint or DNA is likely to eliminate all but the offender whereas knowing only the sex of the offender is of limited assistance, although it still eliminates half the population.

Investigators should always consider setting parameters wider than those suggested by the material to allow for a degree of error in descriptions given by victims or witnesses.

6.8.5 TIME PARAMETERS

The timeframe within which a crime was committed is a useful way of eliminating individuals from the TIE category. People may be able to prove that they were elsewhere when the crime was committed.

Time parameters should be set as accurately as possible, based on the material available. Where the exact time is not known, investigators should set the time parameters between the earliest time at which the crime could have been committed and the latest time.

6.8.6 ELIMINATION CRITERIA

Investigators need to establish the criteria by which they are prepared to eliminate members of the TIE category from the crime. The HOLMES database uses a six point code to do this:

- 1 Forensic elimination, eg, DNA, footwear, fingerprint;
- 2 Description (suspect parameters);
- 3 Independent witness (alibi);
- 4 Associate or relative (alibi);
- 5 Spouse or common law relationship (alibi);
- 6 Not eliminated.

This is a tried and tested coding system and investigators should use it whenever they are carrying out TIE enquiries.

Investigators must decide which level of elimination they will apply in each case. This will depend on the material that is available, the nature of the offence and the characteristics of the TIE category. For example, forensic material is not always available and there may be no description of the offender. Although investigators prefer an independent witness to verify a TIE subject's alibi this is not always possible and it may be necessary to accept an alibi from an associate or spouse in some cases.

An important principle of TIE strategies is that implication and elimination are always provisional and should be rigorously tested against the material to hand and to any new material that later becomes available. It is good practice to regard TIE subjects as being either implicated or eliminated from the TIE category, not as being implicated or eliminated as the offender. For example, someone who has been eliminated against criterion 5, an alibi supported by a spouse, can always be re-examined if new new material comes to light which allows a forensic elimination criteria to be set.

6.8.7 CONDUCTING TIE ENQUIRIES

When carrying out TIE enquiries investigators should be mindful that the subjects of a TIE category may also be potential witnesses. This is particularly so where they were present at the scene or where they are in a group who may know the victim or offender.

Each subject of the TIE category should be interviewed using the PEACE model of investigative interviewing to gather information on the characteristics that are of interest to the investigation. This could be a description, ownership of vehicles and their whereabouts at the time of the crime, together with the details of those who can verify this.

Where the elimination criteria include forensic material or fingerprints, these should also be obtained and arrangements made to have the material tested and the results communicated to the investigator as soon as possible.

PACE Code D (Annex F)

Fingerprints and samples given voluntarily for the purpose of elimination play an important part in many police investigations. It is, therefore, important to make sure that innocent volunteers are not deterred from participating and that their consent to their fingerprints and DNA being used for the purposes of a specific investigation is fully informed and voluntary. If the police or volunteer seek to have the sample or fingerprints retained for use after the specific investigation ends, it is important that the volunteer's consent to this is also fully informed and voluntary. Examples of consent for:

- DNA/fingerprints – to be used only for the purposes of a specific investigation;
- DNA/fingerprints – to be used in the specific investigation **and** retained by the police for future use.

To minimise the risk of confusion, each consent should be physically separate and the volunteer should be asked to sign one or the other but **not both**.

Where the elimination criterion is an alibi, investigators must thoroughly check the alibi with those who can verify it. This process should enable some subjects of the TIE category to be eliminated from the investigation.

Where there is forensic evidence or other compelling material linking a TIE subject to the offence or where their alibi is shown to be false, it is likely that they will be treated as suspects, see [6.11 Suspect Strategy](#). People should not be considered to be a suspect merely because their alibi cannot be verified. Further enquiries should be carried out to gather material that may implicate or eliminate them from the investigation.

Worked Example of a TIE Strategy:

An investigation into the section 18 assault of a man in a busy town centre bar has failed to identify the suspect and the investigator decides to use a TIE strategy.

The suspect parameters are based on witness testimony and are set as:

White male, 20 to 30 years, 5'10" to 6'2" tall, short dark hair, wearing a gold earring in his left ear.

These details are an amalgam of the descriptions given by several witnesses. No clothing is included because some witnesses were unsure of what the offender was wearing.

The time parameters are between 22:15 hrs and 22:30 hrs. Again, these are based on the testimony of several witnesses.

The TIE category is all males in the bar at the time of the offence.

Populating the TIE Category is clearly difficult because it is not known who was in the bar or even how many people were there.

The investigator adopts a snowballing technique starting with the witnesses who are already known. By this method 20 people are identified and four fit the suspect parameters. Three of these were with others who provide credible alibis to the effect that although they were in the bar at the time they were not involved in the assault. The fourth states that he did not visit the bar that evening and was alone at home at the time of the assault. This generates further enquiries to test the sighting of him in the bar at the time of the assault and the use of suspect management strategies.

6.9 COMMUNICATIONS STRATEGY

The way in which investigators manage communications will have a significant effect on the investigation they are conducting. The main thrust of a communication strategy is to communicate or receive information which assists investigators in progressing their enquiries. This can be achieved internally by using colleagues and partners within the criminal justice system and externally by using the media and other advisors and experts.

Advice from internal and external advisors, particularly in areas involving the media, community impact, race and diversity issues, should be sought to ensure that an appropriate level of information exchange is established. This will assist the investigator to maintain focus on the investigation, while ensuring that community reassurance and links to community intelligence are maintained. Advice can be sought from the following sources:

- Force press office and media advisors;
- Community Affairs Departments and Community Race Advisors;
- Crime Reduction Advisors;
- Local community leaders and councillors;
- Community groups or forums;
- Lesbian and gay associations;
- Youth leaders and social services departments.

6.9.1 INTERNAL COMMUNICATIONS

An investigator can use a number of methods to communicate internally. In some cases they may try to develop material to progress their investigation by informal discussions with colleagues, or more formally by creating an entry on a daily briefing sheet. This may take the form of requesting information or assistance to identify likely suspects from descriptions, the MO or the unusual clothing worn by a suspect or witness. Other forms of internal briefing can also be used by investigators to obtain information. This includes:

- Entries on internal bulletin (electronic briefing or paper systems);
- Daily or extended briefing paradises;
- Force newspaper, intranet systems or video briefings;
- Posters;
- Individual briefings to senior officers, community beat officers, local intelligence, custody officers and staff.

Formal briefing sessions may be undertaken depending on the nature and complexity of the investigation and the numbers of resources being deployed. During the lifetime of an investigation, briefing sessions should be held at the start or end of the day, or weekly depending on the requirements of the investigation. All briefings should be planned and structured to provide opportunities for the exchange of information which will enable the investigator to obtain a clear update on progress and assist in identifying lines of enquiry. Factors to consider are:

- Location – fitness for purpose, briefing or conference rooms;
- Timing and frequency;
- Notification – attendees such as initial investigators, analysts, CSIs, intelligence officers, enquiry teams, community beat officers, supervisors, SPoCs, community race advisors, crime reduction advisors;
- Facilities – video, overhead projectors, flip charts, analysts charts, tape recorders;
- Record keeping – maintain records, retain briefing sheets, (CPIA considerations);
- Staff required – such as loggist, secretary, shorthand writer;
- Objective – intended outcome of the briefing or debriefing;
- Structure – discussion points, main lines of enquiry, developments, opportunities, threats;
- Distractions – such as mobile phones and pagers.

All briefings should follow a similar structure. Regular feedback should be obtained on the style, content and effectiveness of briefings to ensure that they are providing the best means of sharing information and reaching the intended audience. In serious and complex enquiries a dedicated briefing officer should be used to ensure consistency. For further information on briefing models see [Appendix 4](#).

6.9.2 MEDIA STRATEGY

Some investigations will attract intense media attention. In investigations such as domestic murder, violence or sex offences, this attention may be local or regional. Some high profile cases involving murder, rape, the use of excessive violence, or where the circumstances are particularly unusual and the victim(s) is a child or is elderly, this may attract wider national, or even international, media attention.

There may be a number of reasons why the investigator would wish to use the media in an investigation. These may include some or all of the following:

- Identifying offender(s);
- Locating a suspect;
- Identifying a victim;
- Appealing for witnesses;
- To reassure or warn the public.

Where the nature of an investigation indicates that there is likely to be high levels of media attention investigators should, at the earliest opportunity, inform the force press officer so that they can develop a media strategy. Early notification is particularly important in cases which include the ACPO definitions of racially or homophobically motivated crime.

In less high-profile cases, investigators may manage local media coverage themselves. Advice and guidance can be obtained from the force press office in these circumstances.

Investigators must ensure that a copy of all material released to the media in the course of an investigation is retained for disclosure purposes in accordance with the CPIA, see [3.7 Criminal Procedure and Investigations Act 1996](#).

Fast Track Considerations

During the early stages of the investigation, a preliminary media strategy may merely be a case of issuing a holding statement pending developments within the investigation. The content of holding statements will vary depending on the circumstances of a particular investigation, but may include confirmatory information such as:

- The police are currently investigating an incident;
- The general location of the offence;
- Initial indications of the nature of the offence (eg, whether a death is being treated as suspicious);
- If a death has occurred, the arrangements for a post-mortem examination to be carried out;
- Whether an incident room has been set up giving the contact telephone numbers;
- An initial appeal for witnesses and/or information.

In all circumstances care should be taken to ensure that the content or timing of a media release is appropriate in the circumstances and will not cause offence to the victim, their family and friends or the wider community. The victim and family should be made aware of a media release prior to it taking place.

Victims should be asked if they agree to their details being released to the press, although it must be stressed that the press may obtain them from sources other than the police.

Identifying the Offender

In some cases it may be appropriate to make an appeal through the media to try and identify the offender. This can be by the use of CCTV footage, photographs, video, E-fits and artists impressions. If E-fits or artists impressions are to be used, care should be taken about the reliability or credibility of the witness who provided the description. For further information on the use of photographs and video footage, see PACE Codes of Practice, Code D, Part 3 paragraphs 3.28 and 3.29, and *ACPO Facial Imaging National Working Practices in Facial Imaging*.

In some cases, offenders will closely monitor the media for coverage of an offence. Further information on behavioural analysis can be obtained from the NCPE Operations Helpdesk which may assist in making direct appeals to suspects.

Locating the Suspect

If a suspect has been positively identified but their location is unknown, a media appeal can be made to locate them. Investigators should make every effort to ensure that the integrity of any future identification procedure is not compromised. In this situation the investigator is advised to consult the force press officer, a force solicitor and the CPS. There are a number of different types of appeal available to investigators. Any appeal should be authorised by an officer of ACPO rank. Where identification is not based on photographic evidence, care should be taken to ensure that descriptions are precise and credible to avoid a mistaken identification.

Witness Appeals

Media appeals can assist the investigation. Appeals should, however, be carefully considered and coordinated to create the maximum opportunity for reaching potential witnesses. Investigators should target appeals at sections of the community most likely to have witnessed the offence or other significant event. Targeting witnesses could be based on factors such as their employment, leisure activities or residence. For the range of media coverage which is available to assist investigations, see **Appeals**.

Reassuring or Warning the Public

Crimes cause concern to members of the community, and especially to the most vulnerable members of society. There is particular concern where a crime is violent or of a sexual nature and the offender is still at large and the threat of repeat offending exists. The investigator can, through careful use of the media, strike a balance between reassuring the public that every effort is being made to identify and locate the suspect, while warning the public of the danger associated with an offender at large. They can also offer sensible preventive steps that members of the public can take to avoid becoming a victim of crime themselves.

Press Conferences

A holding statement released early in an investigation will lead the media to expect that further information will be released at a later date. This expectation can be controlled by giving the media information about the timing of future press conferences and the name of the officer who will be conducting them. Provided that time frames are reasonable there is likelihood that the media will be sympathetic to the victim, their family and the overall aims of the investigation. Regular press briefings will assist this process. In cases where a victim or a member of their family or friends are required to make an appeal they should, where possible, be involved in the planning process.

The press office can in consultation with the SIO, assist the investigation by dealing with the following:

- Handling routine media enquiries;
- Drafting press releases for approval by the SIO;
- Dealing with routine press briefings;
- Organising press conferences and other interviews;
- Liaising with other agencies involved in the investigation to coordinate a joint media response (eg, social services, education or health authorities).

At the beginning of an investigation, all officers should be briefed not to talk to the media. Clear instructions should be given that any media enquiries are directed through the SIO.

Appeals

The following may be used to target appeals to groups that investigators believe may have information about an offence. These include:

- Newspapers;
- Television;
- Radio;
- Crime Stoppers;
- Posters;
- Teletext;
- Trade journals;
- Internet;
- Hotlines;
- Sporting Events.

Where an appeal is made, adequate facilities should be available to deal with the response. If a caller feels that they are not being dealt with efficiently, they may ring off and not call back. As previously stated, the first opportunity to obtain information may be the only opportunity.

In high profile investigations the force press office can be tasked with monitoring and retrieving all news coverage of the incident including appropriate internet sites, eg, news groups or special interest groups.

Legal Issues

Investigators and press officers should be aware of the implications of the Contempt of Court Act 1981 which, in broad terms, forbids the use of any material in the media which may prejudice a fair trial.

6.10 COVERT POLICING STRATEGY

Covert policing (sometimes called targeted operations) can be used in both reactive and proactive investigations. It involves the deployment of tactics, techniques and management processes designed to ensure that the operation and sources of information it uses remain covert.

When investigators are tasked with a covert operation, it is a fundamental principle that although they may not determine the tactics to be employed, they will be responsible for setting objectives, tasking the covert resources and ensuring that the investigation remains focused. The success of a covert operation depends on all those involved in it being aware of the restrictions and requirements of the tactics and the legislation that regulates them. As with any investigative action, the purpose of covert policing is to gather as much material as possible which can be used as evidence in court or fed back into the force intelligence systems to direct or assist future investigations.

Where a covert policing strategy is relevant and authorised, it is usually coordinated through a covert operations team which will be self-contained. A number of covert intelligence techniques are available to progress an investigation. These include:

- Static surveillance;
- Mobile surveillance;
- Technical options;
- CHIS tasking;
- Covert IT applications;
- Covert financial applications;
- Undercover, test purchase and decoy options;
- Covert communications options.

The type of techniques used during an investigation will be decided by the intelligence or covert team and are, therefore, outside the remit of this document.

When developing a covert policing strategy, there are a number of general principles which must be considered by the investigator. These are:

- Have a good working knowledge of intelligence processes and the *NIM*;
- Make themselves fully cognisant of all current, pertinent intelligence material prior to the instigation of an operation;
- Anticipate the need for covert policing and make early and timely bids for such resources, (failure to make an early request may undermine the investigation and valuable material may be lost);
- Ensure that the covert policing strategy is proportionate to the overall objectives of the investigation;
- Know how to obtain advice and guidance for covert options;
- Have a thorough understanding of RIPA and the relevant aspects of the Police Act 1997;
- Understand Public Interest Immunity procedures and legislation, see [3.7 Criminal Procedures and Investigations Act](#);
- Ensure that operations are run on a 'need to know basis' and that operational security is maintained at all times;
- Consult the CPS at the earliest opportunity, (in more complex cases this may be prior to the commencement of the operation);
- Establish a review mechanism if necessary. In serious or complex investigations which involve a high degree of risk, a senior officer must authorise and/or review all operations.

6.10.1 SURVEILLANCE LOGS

During the course of any covert operation a surveillance log (a contemporaneous record of events, actions and movements witnessed by a surveillance operative), must be kept by the intelligence or covert team independently of the investigation's main policy file. This log should not be used to record the actions or movements of the surveillance operative. For example, if an operative witnesses an event involving the surveillance subject, this should be recorded in the surveillance log, but if as a consequence, the operative takes action to secure material, the operative's actions should be recorded in a pocket book or equivalent, in accordance with the provisions of the CPIA.

Separate records must be kept to maintain the security and integrity of the covert operation and, in particular, to protect the following:

- Surveillance tactics, methods and equipment;
- The anonymity of certain witnesses;
- Covert Human Intelligence Sources (CHIS);
- Providers of covert observation posts, (*R v Johnson*) minimum evidential requirements needed if disclosure is to be protected.

R v Johnson Principles

The police officer in charge of observations of a rank not lower than sergeant must be able to testify that beforehand he/she visited all the observation places to be used and ascertained the attitude of the occupiers of the premises:

- As to the use of the premises;
- To the disclosure of the use of the premises;
- To the possible identification of the premises or the occupiers.

The difficulties, if any are encountered, in obtaining observation posts in the area.

In addition, immediately prior to the trial, an officer of a rank not lower than chief inspector must be able to testify that he visited the premises used for observations and ascertained if the occupiers are the same as when the observations were conducted and, whether they are or not, what their attitude is to:

- The possible disclosure of the use made of the premises;
- The disclosure of facts which would lead to the identification of those premises and their occupiers.

This evidence will be given in the absence of the jury when the application to exclude the material evidence is made. The judge should explain to the jury the effect of his or her ruling regarding the disclosure of the premises.

Disclosure of sensitive material contained in the surveillance logs will only be permitted on the direction of the trial judge. For further information on surveillance logs, see *Chapter 9, ACPO Manual of Standards for Surveillance*.

Further information on targeted policing and the role of intelligence and covert operations can be found in:

- *ACPO Manual of Standards for Covert Policing*;
- *Surveillance*;
- *Undercover Operations*;
- *Technical Services Deployments*;
- *Accessing Communications Data*;
- *Recording, Dissemination and Retention of Intelligence Material*;
- *High-Tech Crime*;
- *CHIS*;
- *The National Intelligence Model Minimum Standards and Operations Manual*.

6.11 SUSPECT STRATEGY

6.11.1 ARREST

When a suspect has been identified, an investigator must decide whether the suspect can or should be arrested. The decision to deprive an individual of their freedom is one which should not be taken lightly. Once a suspect has been identified, a number of investigative strategies can be adopted to gather material that will either implicate them in the offence or eliminate them. Every individual who falls within the suspect category must be treated in the same way. If there are specific reasons for not following the same procedure, these should be recorded in the crime report or in the policy file.

Investigators should consider the following points before deciding to arrest an individual.

6.11.2 POWER OF ARREST

Powers of arrest are contained in sections 24, 25 and 26 of PACE 1984. Where no power of arrest exists, some investigative strategies such as interviews under caution, can only be undertaken with the consent of the suspect. Where grounds for arrest exist investigators must consider when and how the arrest should take place.

6.11.3 TIMING AN ARREST

The way in which the identity of the suspect is discovered has a bearing on how and when an arrest should be made. If there is a choice, it is usually between making an early arrest and conducting a planned arrest. The decision about timing depends on a number of factors. These factors should be kept under continuous review. If the circumstances should alter, the decision to make an immediate arrest or to delay it may have to be amended and the reasons for this recorded. These factors are:

- Does the suspect pose a serious risk to the safety of the victim, witnesses or the general public?
- Is there a likelihood that the suspect will commit further or more serious offences?
- Is the suspect likely to destroy, conceal or falsify evidence that will obstruct the investigation?
- Is further surveillance or other covert means of surveillance required? (This will need authorisation under RIPA).

Background Checks

When a suspect has been identified, research should be conducted into the suspect's background and lifestyle. Such checks can strengthen and assist the case. Issues that should be considered include:

- Is the suspect violent?
- Does the suspect possess any known firearms and/or is there a history of use of firearms?
- Does the suspect have or use any other premises?
- Does the suspect have access to any vehicles?
- Does the suspect have any previous criminal convictions, arrests?
- What is their modus operandi (MO)?
- Are there any known associates?
- Is there any habitual behaviour associated with the suspect eg, are they a known gambler or are they a known drug addict?
- Is there any intelligence regarding their previous behaviour in interviews?

A more extensive list of background checks can be found in the *MIM*.

In volume crime investigations, research into a suspect's background and previous offending behaviour may reveal similarities to the offence currently under investigation. It may also lead to the identification of a particular MO which can assist investigators in identifying other linked offences and to plan for subsequent searches or suspect interviews.

6.11.4 SEARCHES

The timing of an arrest provides the investigator with an opportunity to plan searches of the suspect's home address (or other premises), and their vehicles. It may also provide opportunities to recover incriminating or corroborating material before it is altered, disposed of or destroyed. A search of a suspect's premises may also identify property from other offences or intelligence which can be used to identify other offenders or associates. Searches of the suspect's premises should be carried out in accordance with Code B of the PACE Codes of Practice.

When conducting searches or arrests, the investigator should be aware of Locard's Principle, see [6.2. Scene Strategy](#). Evidential material may have been transferred from the victim or crime scene onto the clothing of the suspect. The suspect is, therefore, a potential crime scene which can be harvested, particularly if arrests and searches take place shortly after the commission of an offence. The possibility of cross-contamination must be considered and, wherever practicable, investigators who have visited the crime scene or who have been in close contact with a victim should not be deployed to search or arrest the suspect unless they have changed their clothing. Similar considerations must be applied to the use of vehicles used to convey victims and suspects.

6.11.5 PLANNING AN ARREST

Where circumstances allow, the arrest should be planned. The formulation of a plan should take into account resources and logistics. If several suspects are involved, investigators must decide if the arrests need to be coordinated. They must also consider the method of searching that will be the most appropriate to use and whether search warrants will be required. In some cases, specific custody arrangements may be required. For example, if several suspects are going to be arrested simultaneously, it must first be decided if they should be held at the same or separate police stations, are whether sufficient facilities are available for this.

If the suspect does not speak English, an interpreter should be arranged. Likely defences should be considered and catered for in interview plans. Preparing an initial interview plan at this stage assists in maximising the detention time available to the investigator, post arrest. Prior to arrest in serious or complex investigations, especially where there are multiple suspects or unusual features associated with the commission of the offence, specialist interview advisors should be used or consulted to develop an initial interview strategy. For further information on the use of interview advisors, see [ACPO Investigative Interviewing Guidance](#).

6.11.6 PRE-ARREST BRIEFINGS

The arrest and search teams should be briefed both prior to the arrest and search phase to ensure that all personnel are aware of:

- Each officer's role;
- The reasons for the arrest.

The list below is not exhaustive but covers some of the areas which may have to be considered during a briefing:

- Circumstances of the offence;
- Authority for search;
- Nominated officer in charge of the arrest team;
- Nominated officer in charge of the search team;
- Communications;
- Method of entry;
- Items to be searched for – clothing, footwear, trophies, weapons;
- Recording significant statements or silences, see [6.11.7 Post Arrest](#);
- Methods of recovery and cross-contamination;
- Exhibits officer;
- Loggist;
- Health and safety;
- Transport of suspects – the location of the custody office;
- Interview teams;
- Debrief – time and location.

6.11.7 POST ARREST

Once in custody the suspect's detention is controlled by PACE, section 30. At the time of arrest and before the suspect is delivered to the police station, anything that the suspect says must be fully recorded. In particular any significant statements, eg, 'I don't know what you're talking about', made by the suspect post arrest and before formal interview should be recorded. Arrest teams should be specifically briefed not to question or interview suspects further unless there are imminent threats to life or property. All questioning of a suspect must be conducted in accordance with PACE. The investigator will have an opportunity to challenge any significant statements in formal interview, after presenting contradictory evidence to the suspect.

At the conclusion of the arrest and search phases the teams should be debriefed by a nominated officer to ensure that all relevant material has been identified and documented.

6.11.8 THE IDENTIFICATION OF A SUSPECT

In some cases the suspect will be identified beyond reasonable doubt from the outset of an investigation. They may have been caught red-handed or arrested during the initial investigative response. Alternatively, suspects may be identified from material gathered during the investigation, eg, fingerprints or DNA samples left at the scene. Whenever a suspect's identity becomes known to the investigation, consideration must be given to formal identification procedures. PACE Codes of Practice Code (D) provides guidance to investigators on identification procedures. The *MIM* also gives advice and guidance on appropriate identification procedures to adopt for the identification of a suspect whether they are known or unknown.

The first principle of identification evidence is that failure to accurately record the description of a suspect as soon as it becomes available and failure to use that description as part of the identification process, can seriously undermine the chances of a subsequent conviction. As a rule investigators should bear in mind that recognition does not amount to identification and that where a witness claims to recognise a suspect, identification procedures must still be followed.

The decision as to which identification procedure to adopt during an investigation should be made in consultation with the identification officer. Due consideration must be given to the procedure most suited to the witness.

Where investigators are conducting interviews with witnesses and identification is likely to be an issue, guidelines contained in *R v Turnbull* (1977) and captured in the eight point mnemonic ADVOKATE will assist the investigator to secure the best evidence:

- **A** – Amount or length of time the witness had the suspect under observation;
- **D** – Distance between the witness and the suspect during the observation;
- **V** – Visibility conditions during the observation;
- **O** – Obstructions to the observations, whether they were temporarily or partially inhibited the observation;
- **K** – Whether the suspect is known to the witness in anyway;
- **A** – Any particular reason the witness has for remembering the suspect or event;
- **T** – Time the witness had the suspect under observation and the amount of time elapsed since the event;
- **E** – Errors in the description provided by the witness compared with the actual appearance.

Descriptions should be obtained as soon as possible while the recollection is fresh in the mind of the witness. In some cases the suspect may still be in the locality and may not yet have had the opportunity to alter their appearance or to conceal or dispose of incriminating evidence.

The following identification procedures should be used when the suspect is not known:

- Street identification – when a witness can be taken to the particular location to see whether an identification of a suspect can be made;
- Showing photographs to a witness;
- Showing video footage or photographs of an incident to a witness;
- Using facial imaging techniques which may include artists impressions, composites and E-fits (electronic facial imaging technique). For further information on E-fits see *ACPO National Working Practices in Facial Images*.

Identification Procedures Where the Suspect is Known

Known in this sense means that there is sufficient information known to the police to justify the arrest of a particular person as a suspect for an offence. The initial identification may be the result of one of the procedures outlined in [6.11.8 The Identification of a Suspect](#). Where the suspect is known and the witness is available to take part in an identification parade, the identification procedures should be used in the following sequence:

- Formal identification parade or Video Identification Parade Electronic Recording (VIPER) or other approved video identification techniques;
- Group identification;
- A video film;
- A confrontation.

The use of VIPER or video identification procedures does not require the suspect to attend thereby reducing the time required to arrange formal identification procedures and giving witnesses an early opportunity to view the parade. Witnesses may also feel less intimidated when picking out an image from a computer screen, than by attending a formal identification parade at a police station. However, video identification procedures preclude the witness from seeing the suspect walk or move or use a particular phrase or words, see [6.11.9 Voice Identification](#).

Failure to ensure that the procedures set out in PACE Code D are followed can seriously undermine the strength of the prosecution case or give the defendant grounds for appeal against a conviction. However, there may be circumstances where, following the judgement in the case of *R v Long* [1991], the court will accept identification evidence that has not been gathered in accordance with PACE Code D. For example, where the witness recognises the suspect when they meet accidentally in the street.

6.11.9 VOICE IDENTIFICATION

In some cases, voice identification can be used to support other identification evidence, eg, where the suspect's facial features are obscured but they speak clearly to the victim or witness. There are two categories of voice identification:

- Identification – where the witness identifies the voice of someone they know;
- Recognition – where the witness does not know the voice of the suspect but would be able to pick out the voice as being distinct from other voices.

For further information, voice identification investigators should refer to the *MIM*.

6.11.10 SUSPECT INTERVIEWS

Suspect interviews must be carefully planned. The interviewer should possess a comprehensive knowledge of all the material gathered during the investigation and plan how this should be introduced during the interview. Consideration should also be given to the competence and capability of the staff who conduct the interview. In volume crime cases, inexperienced investigators can request assistance in planning and conducting interviews from experienced colleagues and supervisors. This may include the 'downstream' monitoring of interview.

In serious cases, additional support can be provided by officers with advanced interviewing skills. Specialist interview advisors or behavioural analysts can also assist with the preparation of interview plans. Information regarding interview advisors and behavioural analysts can be obtained from the NCPE Operations Helpdesk. Interviews with suspects should be conducted using the PEACE model of interviewing.

The suspect's previous bad character can now be introduced during the interview process, see below. For further information, see the *NCPE Practice Advice on Evidence of Bad Character (2005)*.

Evidence of Bad Character

The CJA makes fundamental changes to the admissibility of evidence relating to character in respect of defendants and others. In particular, section 103 provides for the admissibility of previous convictions in support of the propensity to commit like offences and/or to be untruthful. Common law rules in the main are abolished.

Bad character evidence is evidence of, or a disposition towards, misconduct rather than evidence relating to the facts in issue. Misconduct includes the commission of an offence or other 'reprehensible behaviour'.

Bad Character of Persons Other Than the Defendant

Such evidence is only admissible if the evidence is important explanatory evidence or has substantial probative value in relation to a matter in issue, and is of substantial importance to the case as a whole. It can also be admitted if all parties agree to its admissibility

Defendant's Bad Character

Evidence of the defendant's bad character is admissible where:

- All parties agree to its admissibility;
- The evidence is adduced by the defendant themselves, or is given in answer to a question asked by him or her in cross-examination and intended to elicit it;
- It is evidence with important explanatory value;
- It is evidence going to a matter in issue between the defendant and prosecution; this will include evidence to show that the defendant has a propensity to commit offences of the kind with which he or she is currently charged as well as evidence to show a propensity to be untruthful;
- It has substantive probative value in relation to an important matter in issue between the defendant and a co-defendant;
- It is evidence to correct false impressions;
- It is an attack on another person's character.

Dealing with Bad Character at Interview

Prior to the CJA, the interviewer could refer to previous bad character. The interview was not restricted to issues of material and admissible evidence. Such references stood to be removed, and there was a risk that subsequent admissions might be disallowed if they were seen to follow from oppressive questioning. The present law, by making a propensity to be untruthful and/or a propensity to commit offences relevant as evidence, reduces this possibility. As a result, officers should address these issues in interview.

Evidence of bad character is only admissible if the appropriate conditions apply. The investigator should, therefore, identify those conditions in framing questions. If a propensity to similar offending is the issue then the similarities should be referred to. If dishonesty is relevant, the defendant will have had to have made a denial which is disputed by him or herself through another party; previous examples of false denials can then be raised.

Interview plans should be prepared using information from the available material. *ACPO Investigative Interviewing Guidance* and the *NCPE Practical Guide to Interviewing* provide detailed guidance on interviewing suspects and pre-interview planning. During the interview the investigator should consider the seven principles set out in *Home Office Circular 22/1992*, see 6.5.6 *Witness Strategy*.

6.11.11 PRE-INTERVIEW BRIEFING (DISCLOSURE)

An investigator must develop a clear strategy for pre-interview briefing. This briefing should strike a balance between providing sufficient information to enable a legal representative to properly advise their client, and giving too much information that produces an adverse impact on the subsequent interview. The investigator is under no legal obligation to disclose anything at this point. It may, however, be beneficial to make a limited disclosure or to adopt a staged disclosure strategy.

Good practice has identified that where pre-interview disclosure is made, it is supplied on tape or in written format and the disclosure is acknowledged by the suspect or their representative. At the start of an interview any material that has been disclosed should be summarised and again acknowledged by the suspect or their representative.

In suspect interviews the role of the defence solicitor is to advise suspects of their rights and to protect their client's interests. Investigators should strive to build a rapport with the suspect and their solicitor, and avoid confrontations.

Section 7

MANAGEMENT

This section sets out a number of management issues which apply to the various phases of an investigation. The extent to which investigators need to manage them will depend on the type and complexity of the investigation.

The majority of volume crime investigations are managed and conducted by the first attending officer with some general supervision or review of the investigation by an evaluator or supervisor. In serious or complex cases the initial management of the investigation remains the responsibility of the first attending officer, but will later be taken over by an IO or SIO.

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7.1 MANAGING AN INVESTIGATION

The CPIA Code of Practice under Part II states that:

'All investigators have a responsibility for carrying out the duties imposed on them under this code, including in particular recording information, and retaining records of information and other material.'

The investigator is responsible for managing these processes.

The successful management of an investigation requires planning, organisation, control and motivation. An investigation may entail managing any or all of the following:

- Resources;
- People;
- Risk;
- Quality assurance;
- Actions;
- Record keeping;
- Auditable decision making;
- Communications.

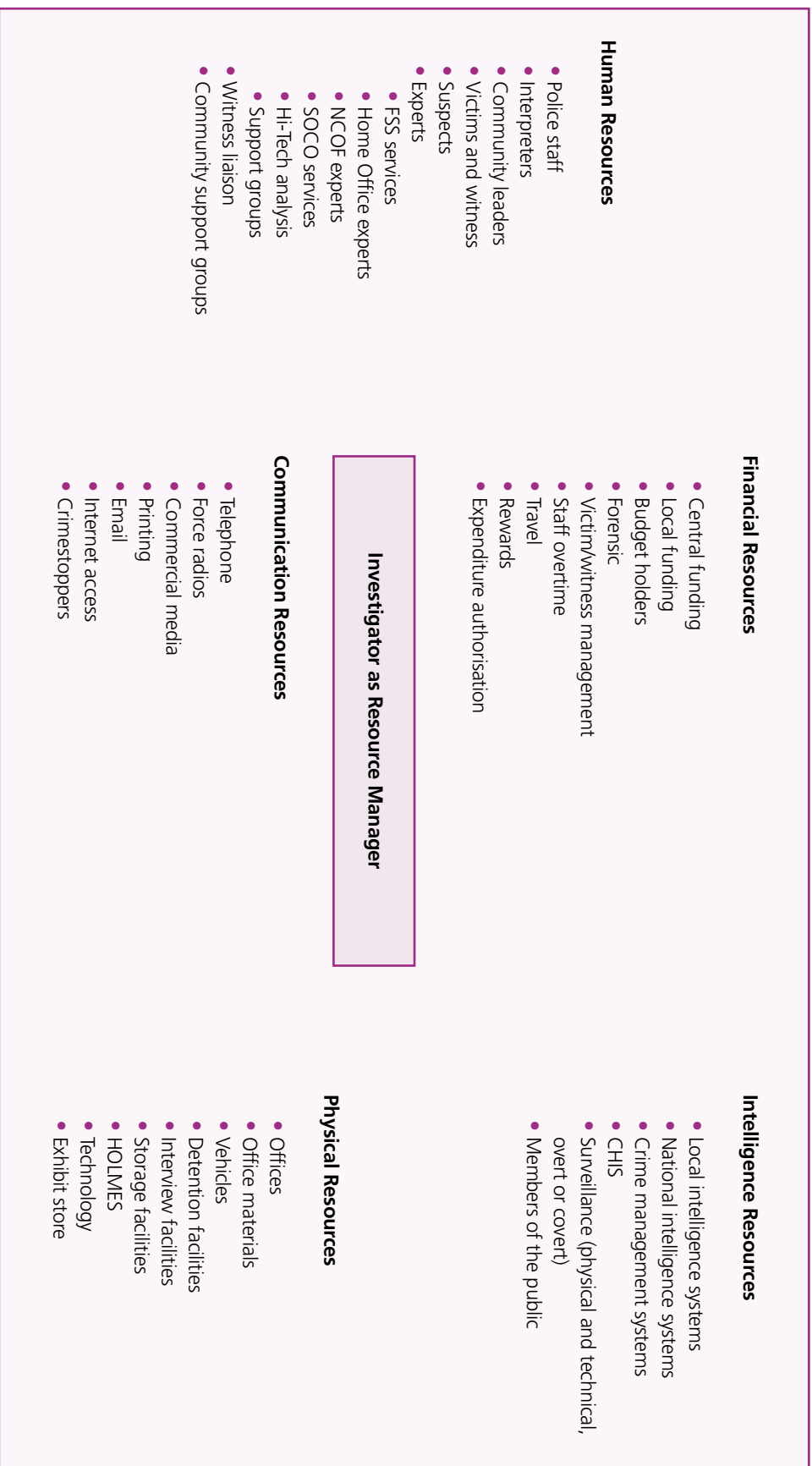
7.2 MANAGING RESOURCES

The key to effective resource management is planning and foresight. Investigators must, at the earliest opportunity, identify the resource needs of an investigation.

These will vary depending on the crime type and whether it is a volume crime or a major investigation. [Figure 7 Managing Resources](#) illustrates the different types of resources available to investigators. When deciding on the resources required the investigator must consider the appropriate level of investigative response, the availability and cost of the required resources and whether their use is proportionate.

Some resourcing decisions in volume crime investigations will be outside the investigator's control, and the use of specialist or technological resources will primarily be driven by local force policies and budgets. The Tactical Tasking and Coordinating Process will often dictate the level of response and resourcing which will be allocated to volume crime investigations in line with local policing priorities.

FIGURE 7 Managing Resources



Where resources are limited, investigators must prioritise the needs of the investigation in line with the resources available. This can be particularly difficult during the initial investigative phase, see [4.4.2 Initial Investigation](#).

For major investigations, significant guidance is available to investigators such as the [ACPO Murder Investigation](#) and [MIRSAP](#) manuals. In those forces without specialist units to deal with major investigations, SIOs or IOs may have to negotiate sufficient resourcing through supervision or local command for the specific needs of the investigation.

Under the CPIA there is now a greater emphasis on full and accurate record keeping within an investigation, see [3.7 Criminal Procedure and Investigation Act 1996](#). This includes the use of resources. Where it is anticipated that significant resources will be used in an investigation, investigators should record in the crime report, policy file or decision log the following information:

- The purpose for which resources were requested (including the reasons for the request and the estimated time the resources would be required for);
- The type of resources allocated;
- The reason for requesting the resource;
- What was actually achieved?

If an investigation or its methods are reviewed by a supervisor, independent review panel or court, those undertaking the review must be able to determine that the investigator's decisions and actions were reasonable. Accurate record keeping will provide a key point of reference in the event of any enquiry or review.

Where resources have been allocated for a particular aspect of an investigation (eg, house-to-house enquiries), the investigating officer must ensure that resources are deployed and managed efficiently and that accurate records are kept of where and how they are used.

7.3 MANAGING PEOPLE

Managing people is integral to any investigation. As [Smith and Flanagan \(2000\)](#) noted, there are two components to people management within an investigation. Managing colleagues within the Police Service, and managing relationships with individuals who may assist the investigation or may provide material to the investigation.

Depending on the nature and complexity of the investigation, an investigator will have to manage and interact with a variety of diverse individuals. These may include not only victims, witnesses and suspects, but also:

- Colleagues;
- Various experts or subject specialists;
- CHIS;
- Solicitors or legal representatives (defence and prosecution);
- Representatives of partner agencies (eg, Social Services, the Probation Service, Immigration).

Given the potential range of individuals that investigators will have to interact with, the following list provides some behavioural traits to assist them in managing themselves and others. This is not a definitive list, nor is it in any particular order of priority.

- **Communication**
Investigators must be able to communicate effectively and adapt to change. Through effective listening, interpretation and understanding information, they can formulate questions and test their understanding of the case. The ability to transmit and receive information accurately is crucial to the progress of an investigation.
- **Sensitivity and Perception**
Investigators need to be conscious of their behaviour and its possible effect on others. Avoiding stereotyping, personal bias and discrimination and being aware of other people's reactions will assist investigators to build and maintain productive relationships.
- **Practical Support**
Investigators should identify the individual needs of victims and witnesses and, as far as is practicable, offer support and assistance in meeting those needs.
- **Influencing Skills**
This is the ability to develop logical and practical arguments or proposals that are likely to identify solutions to problems and be able to persuade people to take a different stance or viewpoint.
- **Assertiveness**
This is the ability to express beliefs and opinions in a forthright manner while taking account of other people's rights and opinions. The investigator's reactions to others should be positive and not aggressive.

7.4 MANAGING RISK

Health and Safety and Human Rights legislation demands that risk is assessed and managed to prevent or reduce the likelihood or impact of harm, damage to property or reputation of:

- Victims;
- Witnesses;
- Suspects;
- The general public;
- Police employees and the Police Service;
- The emergency services;
- The local community;
- Local businesses.

A number of areas of investigation are susceptible to risk and every investigator is responsible for managing these potential risks by undertaking appropriate risk assessments. Areas of an investigation that are susceptible to risk include:

- Harm to an individual or group of individuals;
- Corruption of evidence;
- Failure of a victim or witness to attend court.

The measures taken to deal with risk can range from being relatively simple, such as the provision of crime prevention advice, to the complex, eg, providing witness protection. Investigators must be able to:

- Recognise any risks that may occur during an investigation and their likely impact upon individuals, the investigation or the organisation itself;
- Make appropriate decisions to manage that risk;
- Keep detailed records demonstrating the steps taken to manage and monitor risk;
- Communicate details to others of the risk, or the strategies established to deal with it (eg, colleagues, victims or witnesses).

Forces have policies and procedures for assessing and managing risk. Investigators should understand their local risk assessment and risk management processes. Failure to deal with risk can be detrimental to the health and safety of individuals, do irreparable damage to the investigation and lead to a lack of public confidence in the organisation's competence.

During the course of an investigation risk assessment should be subject to regular reviews to ensure that identified risks have been adequately managed. If any new risks are identified or the nature of the investigation changes significantly, a new risk assessment should be carried out.

Further guidance on the assessment and management of risk is available from the Health and Safety Executive (HSE) at: www.hse.gov.uk/

7.4.1 COMMUNITY IMPACT ASSESSMENT

During the course of an investigation one of the risks that investigators may have to manage is the impact that crime will have on the local community (in particular the impact on vulnerable or minority groups). Community impact assessments will not need to be routinely undertaken. For various reasons, some investigations attract increased attention in the local community or the media. This may be because of the seriousness of the offence or because there is a particular feature which raises public awareness (eg, racist elements, or a series of similar crimes in a small geographical area). Investigators will need to assess the effect the crime has had on the community and each assessment should be decided on a case-by-case basis.

Through consultation and the use of intelligence, the assessment will help to improve community confidence and encourage the free flow of information to assist in monitoring community reactions. Where consultation has taken place with the local community and interested parties, thought should be given to how information can be shared, acted on and, if appropriate, disclosed. Any community impact document will be subject to the provisions of the CPIA.

For further information on community impact assessments and when they may be appropriate, see the *ACPO Murder Investigation Manual*.

7.5 QUALITY ASSURANCE

Forces have their own quality control and investigative supervision systems to ensure that minimum standards of investigation are complied with. In addition, the NCPD document *Management of Volume Crime*, advocates methods and processes for managing volume crime. Investigations of more serious crime, such as homicide will be subject to a formal review procedure at force level.

The statutory charging scheme also provides quality assurance of the investigation process. Following a review of form MG3, the CPS have the discretion to direct the investigator to undertake further investigative actions as required to ensure that the case against the offender is evidentially robust.

Irrespective of this additional review of an investigator's work, there still remains a primary obligation on supervisors and managers to ensure that initial investigative actions are conducted thoroughly and in a timely manner. This quality assurance process will provide information to supervisors and managers that will assist in developing investigators' skills through their personal development reviews.

7.6 MANAGING ACTIONS

The nature and complexity of an investigation will, to some extent, dictate the investigative action that investigators must manage. Force policies may also dictate the level of investigative response and activity.

Most volume crime investigations are conducted by a sole investigator, assisted in varying degrees by crime scene examiners or other specialists. In these cases the investigator has to prioritise their investigative actions, some of which will be evident from the initial attendance to the victim or the crime scene.

Other investigative action entails developing and completing lines of enquiry, and recording the decision-making process which underpins this action in the crime report or associated documents. This assists colleagues, supervisors and managers to verify the progress of the investigation and to advise on prioritisation issues to support the investigation.

In major or serious criminal investigations more than one investigator may need to be deployed. These investigations are also likely to generate multiple investigative actions and the collation of numerous documents. The *ACPO Major Incident Room Standard Administrative Procedures (MIRSAP)* manual advises on the procedures to adopt for the effective deployment and management of investigative resources and documentation.

7.7 RECORD KEEPING

An auditable record of the reasons for taking a particular investigative action must be kept. This will provide invaluable information for the initial and any subsequent investigator, and for the organisation. It will also provide an overview of the investigation and can be used to record areas such as:

- Investigative actions (the options preferred and considered);
- Any investigative strategy used;
- Risk assessments;
- Resource considerations;
- Health and safety considerations.

Records are kept in a variety of formats depending of the seriousness and complexity of the crime under investigation. Common formats include:

- Crime reports for most types of volume crime investigations;
- Decision logs or policy files for serious or complex investigation.

The type of format used will be subject to local forces policies and procedures.

Timely and accurate records provide an audit trail of why decisions were taken and what factors were considered or discounted by the investigator in arriving at that decision. The recording of this information demonstrates the accountability and integrity of the investigative process.

Auditable decision making means:

- Recording what has been done and why it was done; the reasons for taking particular investigative actions and what the outcome was;
- Providing an audit trail that can be followed in the event of review, scrutiny, or new material coming to light.

Investigators must be able to justify why a decision was made and be confident that others will be able to understand why they arrived at that decision. Auditable decision making enables investigators to recall a particular investigation long after the event. An individual's recollection of events may become inadvertently distorted, even over a short period of time. Access to a record of the decisions made at the time of the investigation are more likely to be accurate and credible.

If new information subsequently comes to light the original investigative actions can be reviewed, documents and exhibits can be located, and the investigation progressed without unnecessary delay.

Keeping full and accurate records may also reduce the risk of cases collapsing where doubt can be cast on the integrity of evidence or there are technical faults in the evidence gathering process. It also avoids unsafe convictions and the costs and any attendant negative publicity associated with appeals and re-trials.

For further information on decision-making and policy files see the:

ACPO Murder Investigation Manual;
ACPO Road Death Investigation Manual;
ACPO Manual of Surveillance Standards.

7.7.1 EXHIBIT MANAGEMENT

During the course of an investigation, the investigator will gather material which may be in a physical, documentary, or biological format. This material will be referred to as exhibits and will require collation, examination and storage to maintain their integrity and provenance. The investigator must maintain accurate and comprehensive records of all exhibits. As each exhibit is recovered during an investigation, a record should be compiled detailing the:

- Precise description of the material recovered;
- Precise location of recovery;
- Time, day and date of recovery;
- Individual who produces it;
- Individual who recovered it;
- Location and method of storage.

If the material is subsequently removed from storage this should also be recorded, detailing the reasons for this and the name of the person who removed it. Advice on the recovery, handling and storage of exhibits can be obtained from CSIs or CSMs and supervisors.

In large scale, serious or complex enquiries a dedicated exhibits officer may be appointed. The exhibits officer is responsible for maintaining an exhibit register detailing all of the above. Additionally, they will be responsible for bringing significant items to the attention of the investigator at the earliest opportunity. See *MIRSAP* for further information on the management of property and exhibits.

Indexing

In large and complex enquiries records of relevant information are maintained on indexes. The *ACPO MIRSAP* manual gives guidelines for indexing material gathered during the course of an investigation. These guidelines can be followed using the HOLMES database or on what are commonly known as 'proper indexing systems', ie, card indexes to manage actions and material. Investigators should familiarise themselves with those systems available to them.

7.7.2 HANDOVER

This refers to the manner in which the responsibility for an investigation passes from one investigator to another. The initial investigator must record the full extent of their actions. The point of handover should be explicit and documented, and investigators must ensure that all available information about the conduct of an investigation has been fully communicated to any new investigator. This will ensure that all investigative opportunities are progressed.

The principle of 'passing the baton', therefore, applies. In the majority of volume crime cases the handover can be recorded on the crime report or associated document. In serious cases a verbal briefing/debriefing may be necessary, to fully update the new investigator and to allow for the dissemination of information or the physical transfer of documents or exhibits. In certain cases it will also allow the initial investigator to communicate to the new investigator any actions that need to be conducted or finalised. A full record should be made of the handover process.

7.7.3 BRIEFING AND DEBRIEFING

Briefing is a method of imparting or exchanging information. Briefings can be to senior investigators and managers or to colleagues and team members. They can also be used as a means of motivating people to work as a team by explaining what is expected of them, and to measure and monitor the progress towards an objective.

Debriefing is an opportunity for the investigator to obtain and share feedback on the outcomes of an investigation. Briefing and debriefing are powerful learning tools for the investigator and the organisation, identifying good practice and areas for development

Effective briefing and debriefing require knowledge of the following:

- Subject – outline of the facts or circumstances to the audience;
- Individuals to be briefed – what is their level of competence and capability?
- Objective – the investigator must ensure that they and the audience know what they want to achieve, how this will be accomplished and by whom.

All of the above require the investigator to undertake a degree of planning. Briefings should not be conducted informally. All briefing and debriefing notes should be kept for disclosure purposes.

For further reading on briefing and debriefing see the *ACPO Murder Investigation Manual*. See also [Appendix 4](#) for the IIMARC and SAFCOM briefing models.

7.8 SUMMARY

Investigators must be able to manage themselves and their time effectively in order to be able to successfully manage all aspects of an investigation.

'To manage yourself effectively you have to be aware of the policies which affect your work. You have to establish what guidelines exist to help you deal with eventualities. Again do not wait to be told – you find them out for yourself.'

Armstrong (1990)



APPENDIX 1

ABBREVIATIONS AND ACRONYMS

ABE	Achieving Best Evidence
ACPO	Association of Chief Police Officers
ACPOS	Association of Chief Police Officers Scotland
AG	Attorney General
ANPR	Automatic Number Plate Retrieval
BADMAN	Behavioural Analysis Data Management Auto Indexing Network
BCU	Basic Command Unit
BIA	Behavioural Investigative Adviser
BVPI	Best Value Performance Indicator
Catchem	Centralised Analytical Team Collating Homicide Expertise Management
CC	Crown Court
CCTV	Close Circuit Television
CDA	Crime and Disorder Act 1998
CHIS	Covert Human Intelligence Source
CHRIS	Crime Handling and Reporting Information System
CICA	Criminal Injury Compensation Authority
CID	Criminal Investigation Department
CJA	Criminal Justice Act 2003
CJS	Criminal Justice System
CPD	Continuing Professional Development
CPIA	Criminal Procedure and Investigations Act 1996
CPS	Crown Prosecution Service
CRA	Crime Reduction Adviser
CSI	Crime Scene Investigator
CSP	Communication Service Providers
CSM	Crime Scene Manager
DfT	Department for Transport
DNA	Deoxyribonucleic Acid
DPP	Director of Public Prosecutions
DTI	Department for Trade and Industry
DVLA	Driver and Vehicle Licensing Agency
E-FIT™	Electronic Facial Identification Technique
ECHR	European Convention on Human Rights
EHRR	European Human Rights Reports
Email	Electronic Mail
ESDA	Electro Static Detection Apparatus (Electro Static Document Analyser)
FIB	Force Intelligence Bureau
FLINTS	Forensic Led Intelligence System
FLO	Family Liaison Officer
FME	Forensic Medical Examiner
FSS	Forensic Science Service
HMCE	Her Majesty's Customs and Excise
H2H	House-to-House
HMIC	Her Majesty's Inspectorate of Constabulary
HMSO	Her Majesty's Stationary Office
HO	Home Office

HOLMES	Home Office Linked Major Enquiry System
HORT1	Home Office Road Traffic form
HRA	Human Rights Act 1998
HSE	Health and Safety Executive
ICIDP	Initial Crime Investigators Development Programme
IO	Investigating Officer
IPCC	Independent Police Complaints Commission
IPLDP	Initial Police Learning Development Programme (Probationer Training)
IT	Information Technology
JOPI	Joint Operational Instructions (For the Disclosure of Unused Material)
MAPPA	Multi-Agency Public Protection Arrangement
MC	Magistrates Court
MG 3	Report to Crown Prosecutor for Initial Charging Decision
MIM	Murder Investigation Manual
MIR	Major Incident Room
MIRSAP	Major Incident Room Standard Administrative Procedures
MMS	Multimedia Messaging Service
MO	Modus Operandi
NAFIS	National Automated Fingerprint Identification System
NCALT	National Centre for Applied Learning Technologies
NCIS	National Criminal Intelligence Service
NCOF	National Crime and Operations Faculty
NCPE	National Centre for Policing Excellence
NCRS	National Crime Recording Standards
NCS	National Crime Squad
NHTCU	National High Tech Crime Unit
NID	National Injuries Database
NIM	National Intelligence Model
NOS	National Occupational Standards
NPP	National Policing Plan
NTAC	National Technical Assistance Centre
PACE	Police and Criminal Evidence Act 1984
PDF	Personal Descriptive Form
PDR	Personal Development Review
PEACE	P – Preparation and Planning; E – Engage and Explain; A – Account Clarification and Challenge; C – Closure; E – Evaluation (Model for Investigative Interviewing)
PI	Public Interest
PII	Public Interest Immunity
PIMS	Police Informant Management System
PIP	Professionalising Investigation Programme
PNC	Police National Computer
PNLD	Police National Legal Database
PNSC	Police National Search Centre
POCA	Proceeds of Crime Act 2002
PolSA	Police Search Advisor
PRCU	Policing and Reducing Crime Unit
PRC	Policing and Reducing Crime
PSNI	Police Service of Northern Ireland

PSU	Policing Standards Unit
PSSO	Police Skills and Standards Organisation (now Skills for Justice)
QC	Queens Counsel
QUEST	Queries Using Extended Search Technique (on PNC)
RDS	Research, Development and Statistics Directorate
RIPA	Regulation of Investigatory Powers Act 2000
RRA	Race Relations (Amendment) Act 2000
SARC	Sexual Assault Referral Centre
SCAS	Serious Crime Analysis Section
SFO	Serious Fraud Office
SMS	Short Messaging Service
SIO	Senior Investigating Officer
SOLO	Sexual Offences Liaison Officer
SPoC	Single Point of Contact
STO	Specially Trained Officers
TIC	Taken into Consideration
TIE	Trace, Implicate and Eliminate
UK	United Kingdom
VIPER	Video Identification Parade Electronic Recording
VODS	Vehicle on Line Descriptive System (On PNC)
WCU	Witness Care Unit
YCJA	Youth and Criminal Justice Act 1999

APPENDIX 2

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APPENDIX 3

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APPENDIX 4

BRIEFING MODELS

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BRIEFING MODEL 1: IIMARC

INFORMATION	<p>What is the 'action' about? This can be compared to the 'Situation' in the acronym SAFCOM.</p>	<p>This will include the following considerations:</p> <ul style="list-style-type: none"> • When will it commence? • How long will it last? • Where is the venue? • Is the action covered by legislation? • Are any other agencies involved and do they have specific legal responsibilities?
INTENTION	<p>What is the intention? This can be compared with the 'Aim' in the acronym SAFCOM.</p>	<p>This will detail what needs to be achieved as far as is reasonably practicable causing least disruption to normal community life, returning to normality as soon as possible.</p>
METHOD	<p>How will the intention be achieved?</p>	<p>This will include the following considerations:</p> <ul style="list-style-type: none"> • What is the command structure, who is in command and where will they be during the action? • There must be clear tasking, detailing who is responsible for what; • Is there a need for a rendezvous point (RVP) or marshalling area and cordons, if so where are they to be sited? • What routes should vehicles take and where must they be parked, are there maps/sketch plans available? • What is the policy for dealing with arrests/prisoners, who will deal with them and where should they be taken? • Is there any liaison with any specialist police agencies or outside agencies and what is their role?
ADMINISTRATION	<p>What are the administrative issues surrounding the 'action'?</p>	<p>The list of considerations here is endless but may include the following:</p> <ul style="list-style-type: none"> • Briefing – where will it take place, briefing aids required, who will attend etc? • Security & Disclosure – who needs to know, unused & sensitive material, communication etc? • Contingency Plans – what could go wrong, what will happen then etc; • Custody issues – location, interviewing, interpreters etc; • Personnel – start/finish times & locations, transport, overtime, refreshment, toilet facilities, equipment/tools, protective clothing, welfare etc; • Media Issues – press liaison, press releases etc; • Intelligence – information known, information to be gained etc; • Legal Issues – legislation handouts, warrants, authorities etc.

BRIEFING MODEL 1: IIMARC continued

RISK	<p>What are the weaknesses and threats and what could go wrong?</p> <p>Notes:</p> <ul style="list-style-type: none"> For larger operations consideration must be given to writing a health & safety risk assessment. 	<p>Issues will include the following considerations:</p> <ul style="list-style-type: none"> What are the health & safety/duty of care issues in respect of operational team, support services, the public, suspect? How can weaknesses/threats be lessened or eliminated, what are the plans to cope with them? Are staff deployed in sufficient numbers, are they adequately trained/equipped, have they been properly briefed? Is there a need for a community care assessment plan to minimise adverse effects on the local community? If anything goes wrong, what would need to be done, how could existing resources be diverted, could they cope, could a change of purpose be achieved, could resources employed within the operation be readily deployed at short notice, is there a need for a reserve etc.
COMMUNICATIONS	<p>How will communication be maintained throughout the action?</p>	<p>Issues will include the following considerations:</p> <ul style="list-style-type: none"> Security implications; Radios – type, channel, spare batteries, call signs, radio silence etc; Mobile Phones, contact telephone numbers and loud hailer. Will all communication go through the Operational Commander or the control room?

BRIEFING MODEL 2: SAFCOM

SITUATION	<p>What is the problem? This can be compared to the 'Information' in the acronym 'IIMARC'</p>	<p>What is the situation or problem?</p> <p>The officer needs to be able to give a clear and factual outline.</p>
AIM	<p>What is my aim? This can be compared with the 'Intention' in the acronym 'IIMARC'</p>	<p>What is the officer's aim in addressing the situation?</p> <p>The officer requires a clear aim, how can an operation be planned without a clear idea of what it is supposed to achieve?</p>
FACTORS	<p>What are all the factors that make up or contribute to this problem?</p>	<p>This is a risk assessment.</p> <p>The officer needs to consider:</p> <ul style="list-style-type: none"> • What factors may affect the operation? • What steps need to be taken to reduce risk, if that is possible? • What resources will be required?
CHOICES	<p>What are the various solutions?</p>	<p>The officer is expected to examine all possible ways of addressing the situation and conduct an assessment/analysis of each method.</p>
OPTION	<p>What is my preferred option? This can be compared with the 'Method' in the acronym 'IIMARC'</p>	<p>Having examined the available choices the officer needs to decide on the preferred option and be able to explain why.</p> <ul style="list-style-type: none"> • Is it effective? • Is it proportionate? • Does it represent best value? • Is it achievable?
MONITORING	<p>How will the preferred option be monitored in order to ensure the aim is achieved?</p>	<p>The officer needs to have a method of monitoring whether the preferred option is achieving the aim.</p> <ul style="list-style-type: none"> • How will success be measured? • Mobile phones, contact telephone numbers and loud hailers. • Will all communications go through the Operational Commander or the control room?

