

## **DEATH FOLLOWING POLICE CONTACT: DEATHS OF MEMBERS OF THE PUBLIC DURING OR FOLLOWING POLICE CONTACT**

### **FEDERATION ADVICE.**

An incident involving the death of a member of the public during or following police contact will be classed as a death in police custody (DIC) in circumstances where;

- There has been a fatal shooting incident involving the police.
- There has been a fatal road traffic incident involving the police.
- A person under arrest dies in or immediately following release from police custody.
- A person dies during or following any other type of police contact (eg. running away from police, suicide at a siege or where a hostage is killed etc)

If the service is in any doubt about whether an incident amounts to a death in custody it is highly likely that it will be dealt with as such and there will be IPCC involvement, either by way of an Independent or Managed Investigation.

A trained Police Federation misconduct friend should be called to such an incident without delay. Joint Branch Boards (JBB's) should ensure that procedures are in place for Police Federation representation to be made available through local procedures and arrangements.

### **INITIAL ACTIONS**

If in any doubt whether an incident is a DIC or whether it may become such, it is advisable to deal with the matter as a CRITICAL INCIDENT in order to safeguard the position of the officer(s) involved.

Identify the Principal Officer(s) and consider calling out additional 'friends'. In the event that there is a conflict between principal officers it will be necessary for there to be more than one friend. This may be advisable if there are a number of officers requiring advice.

Secure the services of a recognised Police Federation lawyer, JBBs should have the emergency call out and contact numbers of such individuals within their area.

Your JBB Discipline Liaison Officer (DLO) should be made aware and ought to make themselves available for advice, co-ordination and guidance.

Senior investigating officers and IPCC officials will be involved and will have a set procedure to follow, which may not prioritise the welfare and rights of the officer. There will always be an investigation following a DIC and they may regard the individual(s) concerned as both suspects and witnesses and may attempt to secure accounts and admissions from them at an early stage in order to commence their enquiries.

Identify the Post Incident Manager (PIM) at an early stage and suitable post incident location and take the officer there as soon as possible. This will have the effect of minimising the risk of the officer being asked to give an account early in the post incident investigation and away from colleagues who will naturally be talking about the incident. Any comment at this stage could be extremely damaging to the officer in any subsequent investigation.

Individuals who have been involved in a critical incident may be suffering the effects of perceptual distortion and may react in many different ways, it may be appropriate for there to be a period of rest / recuperation before any subsequent account is given to the investigation. Distress, panic, worry and an inability to recall all of the details in a clear chronological pattern will be predictable emotions.

Consider requesting the attendance of a medical practitioner (not necessarily a Force Medical Examiner (FME) who may not be able to act wholly in the interests of the individual). Reassure the individual that it is not a sign of weakness to feel tearful or emotional, offer them support and be positive.

Consideration could be given for contact to be made with Plowman Craven & Associates (surveyors retained by the PFEW) who specialise in scene reconstruction. Initial contact should be made as per Appendix A.

## INVESTIGATION

Make contact with the Investigating officers and outline your role in protecting and advancing the officers' rights to them.

Remember an individual cannot be both a suspect and a witness. If the investigators are recovering clothing and equipment and asking for samples etc then the individual is clearly being regarded as a suspect.

Ensure that the officers' rights and entitlements under PACE are rigidly applied, expect to experience tension and conflict with senior officers and be prepared to stand your ground. If this occurs ensure the attendance of a lawyer without delay.

The officer may be requested to provide various personal samples. Decisions on provision of such samples MUST be made only after obtaining legal advice.

Clothing may be asked for; if it belongs to the Force, let them have it but ask what the reason is for the request. If the clothing is personal it can only be taken if the officer consents or it is seized under section 19 of PACE, which would suggest the officer is being treated as a suspect. Ensure the officers' dignity is preserved and suitable arrangements are made for replacement garments.

The IPCC and the force may state that they need some form of account in order to properly commence enquiries. This is understandable, however you should consider other ways in which this information may be available without the principal officers actually speaking. In most cases officers other than the principal officers will be able to provide the investigating officer with as much information as is needed at the early stages of the investigation.

There may be other sources of information available. For example there may be video evidence, there may be witnesses or CCTV coverage. It is highly likely that sufficient information will be available from these other sources so as to avoid the need to approach the principal officers at this early stage.

In circumstances where it is clear that there is no source of information as to what happened other than from the principal officers the friend can play an important role. After seeking legal advice a very brief summary could be provided to the Investigating officer through the friend.

## DUTY STATEMENTS

An individual can lawfully be requested to provide a duty statement provided that they are not under investigation for criminal or discipline matters. If the officer is asked to provide such a statement you should ask the Senior Investigating Officer (SIO) to confirm that this is the case.

Any statement made in these circumstances should bear the heading;

*“ I have been advised by.....that I am not under investigation for any matter and I make this statement on this basis and understand it will not be used against me in any way”*

This **may** provide limited protection.

It can be regarded as disobeying a lawful order to fail to provide a duty statement, however you should stress that the officer will do so after their solicitor has had the opportunity to read it. Nothing in law dictates the length or depth of such a statement and as such it could be very brief.

Stressful incidents will affect the ability of individuals to concentrate and remember things, perceptual distortion is commonplace. Medical advice suggests that an individual should have 24 hours rest before being able to formulate a proper response.

If you have any doubts about the officers' ability to provide a first account, whether this be in a duty statement or any verbal account then the opinion of a doctor must be obtained.

## AFTERCARE

The officer may feel uncomfortable remaining at work following a critical incident. Arrange for their safe return to their home address following any initial action required at the time of the incident.

DIC incidents inevitably attract a great deal of press attention. The media may publish or broadcast items that can cause a great deal of distress to the officer. Prepare them for this. Take steps to ensure the anonymity of the officers. Encourage them to take sensible steps to avoid members of the press discovering their details. Ask the investigating officer to consult with you before the force makes any media release.

Be prepared to offer help and support for long periods of time and expect individuals to act out of character. Engage Occupational Health and medical experts where possible to provide suitable support.

Please make yourself aware of H/O Circular 13/2002 (Deaths in Police Custody: Deaths of Members of the Public during or following Police Contact) and H/O Circular 31/2002 (Deaths in Police Custody: Guidance to the Police on Pre-Inquest Disclosure).