

## DEATH ON POLICE CONTACT

### Federation Advice On Death Following Police Contact

#### INITIAL ACTIONS

If you are involved in any way in an incident, which has resulted or could result in the death of a person you should seek immediate advice from a Federation Representative and/or a Solicitor.

The Investigating Officer and the IPCC will be involved at a very early stage and have a role to perform which does not necessarily include your welfare.

They have to consider whether you are a suspect or a witness but they may ask you to provide an initial account of events at an early stage prior to making this decision in order to commence their investigations.

**YOU ARE STRONGLY ADVISED TO SEEK ADVICE FROM THE POLICE FEDERATION PRIOR TO GIVING AN INITIAL ACCOUNT.**

Your Federation Representative will give initial advice and secure you the services of a Solicitor who can advise you further and protect your interests.

For out of hours Federation assistance, contact the Force Control Room who will in turn contact the duty on call Federation representative on your behalf.

#### INVESTIGATION

You cannot be both a suspect and a witness. If you are being requested to provide your clothing or equipment or being asked for samples then you are clearly being regarded as a suspect and you must ensure that your rights and entitlements under PACE are respected. You may experience some tension and conflict with the Investigating Officers and you must be prepared to stand your ground and seek advice where necessary.

**YOU ARE STRONGLY ADVISED TO SEEK ADVICE FROM THE POLICE FEDERATION BEFORE PROVIDING ANY SAMPLES.**

You need to be aware that stressful incidents can affect your ability to recall what may be important details. Medical advice suggests that you will be better able to give a full account after a period of at least 24 hours rest.

The investigating officer and the IPCC will want to know what happened and may state that they need some form of account from you in order to properly commence enquiries. This is understandable; however the information they require may be available from another source without you having to give an early first account. Even if you believe you have done nothing wrong, prior to giving an early account be guided by the advice given to you by your Federation Representative and/or Solicitor who are there to represent your interests.

## **DUTY STATEMENTS**

You cannot lawfully be required to provide a duty statement if you are or may be investigated for criminal or misconduct matters.

If you are asked to provide a first account or a duty statement you should make it clear to the Investigating Officer(s) that you intend to reserve your position until you have had the benefit of independent advice from a Federation Representative and/or Solicitor.

Contact in the first instance should be through the local Police Federation offices, Guardians House, **(0121 700 1100)**, or the on call Federation Representative (out of hours via Force Control Room), however if this is not possible then contact should be via the Federation's retained solicitors, Russell Jones & Walker (out of office hours emergency contact number 0800 908 977).

## **FEDERATION ADVICE ON DEATHS IN POLICE CUSTODY FOLLOWING POLICE CONTACT**

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 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 officers involved.

Identify the principal officers 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. Contact in the first instance should be through the local Police Federation offices, Guardians House, **(0121 700 1100)**, or the on call Federation Representative (out of hours via Force Control Room), however if this is not possible then contact should be via the Federation's retained solicitors, Russell Jones & Walker (out of office hours emergency contact number 0800 908 977).

Your Joint Branch Board 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. This may not prioritise the welfare and rights of the officers. There will always be an investigation following a DIC.

The investigating officers and IPCC officials may regard the individuals 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; identify a suitable post-incident location; and take the officers there as soon as possible. This will have the effect of minimising the risk of the officers 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 officers 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.

## **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 officers 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 officers consent, 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 officers are 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 officers 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. West Midlands Police Federation have agreed with ACPO that an officer should have a minimum of two normal rest periods before being requested to make a statement.

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

## **AFTERCARE**

The officers 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 officers. 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 the below documents: -**

- [H/O Circular 13/2002](#) (Deaths in Police Custody: Deaths of Members of the Public during or following Police Contact)
- [H/O Circular 31/2002](#) (Deaths in Police Custody: Guidance to the Police on Pre-Inquest Disclosure).