

Deaths in custody

This page is from APP, the official source of professional practice for policing.

First published 23 October 2013 Updated 1 July 2020

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17 mins read

Deaths in custody and successful interventions/adverse incidents

There are five categories which define a death in custody or a death following contact with the police.

Category 1 – road traffic fatalities, including deaths of motorists, cyclists or pedestrians arising from police pursuits, police vehicles responding to emergency calls and other police traffic-related activity.

This does not include:

- deaths following a road traffic incident (RTI) where the police have attended immediately after the event as an emergency service

Category 2 – fatal shootings, including fatalities where police officers fired the fatal shot using a conventional firearm.

Category 3 – deaths in or following police custody, including deaths that occur while a person is being arrested or taken into detention, deaths of people who have been arrested or who have been detained by police under the [Mental Health Act \(MHA\) 1983](#). The death may have taken place on police, private or medical premises, in a public place or in a police or other vehicle.

This includes:

- deaths that occur during or following police custody where injuries that contributed to the death were sustained during the period of detention

- deaths that occur in or on the way to hospital (or other medical premises) following or during transfer from scene of arrest or police custody
- deaths that occur as a result of injuries or other medical problems that are identified or that develop while a person is in custody
- deaths that occur while a person is in police custody having been detained under [section 136](#) of the MHA 1983 or other related legislation

It does not include:

- suicides that occur after a person has been released from police custody
- deaths that occur where the police are called to assist medical staff to restrain individuals who are not under arrest

Category 4 – apparent suicides that occur within two days of release from police custody and apparent suicides that occur beyond two days of release from custody where the period spent in custody may be relevant to the subsequent death.

Category 5 – deaths during or following other types of contact with the police, including deaths following contact with the police, either directly or indirectly, that did not involve arrest or detention under the MHA 1983 and were subject to an independent investigation by the Independent Office for Police Conduct (IOPC). An independent investigation is determined by the IOPC for the most serious incidents that cause the greatest level of public concern, have the greatest potential to impact on communities or that have serious implications for the reputation of the police service. Since 2010/11, this category has included only deaths that have been subject to an IOPC independent investigation. This is to improve consistency in the reporting of these deaths. Forces must refer such deaths immediately to the IOPC.

This may include:

- deaths that occur after the police are called to attend a domestic incident that results in a fatality
- deaths that occur while a person is actively attempting to evade arrest; this includes instances where the death is self-inflicted
- deaths that occur when the police attend a siege situation, including where a person kills themselves or someone else

- deaths that occur after the police have been contacted following concerns about a person's welfare and there is concern about the nature of the police response
- deaths that occur where the police are called to assist medical staff to restrain individuals who are not under arrest

See the [IPCC report on deaths during or following police contact 2013/14](#) for more detail on the definitions of each category.

For further information on definitions and referral of complaints and conduct matters to the IOPC, see the [IOPC statutory guidance to the police service on handling complaints](#), specifically chapter 7 on 'death and serious injury matters' and chapter 9 on 'referrals'.

For the purposes of this APP, the terms 'successful intervention' and/or 'adverse incident' mean any incident which, if allowed to continue to its ultimate conclusion, would have resulted in death or serious injury to any person.

Steps that should be taken

The following checklists outline the actions that officers and staff should take in different circumstances. The first checklist describes what actions should be taken when a death in custody has been avoided through timely police intervention; this scenario is described as a 'successful intervention'.

When a successful intervention occurs in custody

When a successful intervention occurs in custody, officers should:

- check for vital signs and consider first aid
- call for medical support if available within the custody suite
- consider the need for an ambulance and call one if appropriate
- allow the detainee to be taken to hospital if required
- brief ambulance staff or hospital staff on medical history while in custody
- decide if the detainee should be accompanied by a police officer
- authorise a police officer (or officers) not involved in the incident or directly responsible for the detention of the person to accompany the detainee to hospital

- not delay the detainee's departure to hospital if it is not immediately possible to find a suitable officer to accompany them to hospital

Immediately thereafter, the officers should inform the duty inspector.

Officers should consider carrying out the following in conjunction with the inspector. These steps are determined by the seriousness of the actual harm and the intended or likely consequences of the actions in question:

- identify all potential scenes and secure as appropriate
- photograph the whiteboard
- ensure that the incident and any subsequent actions are noted on the custody record and provide the time of those actions and the time the record is made
- ensure an incident log/serial/report is created and commence a scene log
- consider relieving custody staff for remaining shift and their next shift

Next steps:

- inform the professional standards department (PSD), which will ensure compliance with the statutory requirement to report the incident to the IOPC – if death or serious injury has not occurred, there is no mandatory referral requirement but voluntary referral may be appropriate
- inform the relevant Police Federation or staff association representative as they can advise the officers and staff involved and secure legal representation if required
- consider the welfare of officers and staff who have been present/involved in the incident and may be experiencing the effects of psychological trauma and distress
- arrange a debrief, which should be carried out only after the officers involved have provided an account and the needs of the investigation have been met – it may be that this debrief only takes place following conclusion of the investigation

These considerations do not preclude speaking to relevant staff on issues of welfare and the next stages of any PSD and IOPC actions.

When an incident occurs following police contact

Officers should take these actions following a successful intervention when it occurs in a place that is not a police station (incident following police contact):

- check for vital signs and apply first aid as necessary
- consider the need for medical support
- consider whether the detainee should be transported to hospital and call an ambulance if appropriate
- consider the need for the detainee to be accompanied by a police officer if taken to hospital

Immediately thereafter, officers should inform the duty inspector, identify all potential scenes and secure as appropriate.

Next steps:

- inform the PSD
- inform the relevant Police Federation and/or staff association representative, who can advise the officers and staff involved and secure legal representation if required
- consider the welfare of officers and staff who have been present/involved in the incident and may be experiencing the effects of psychological trauma and distress
- arrange a debrief, which should be carried out only after the officers involved have provided their initial account and the needs of the investigation have been met – it may be that this debrief only takes place following conclusion of the investigation

These considerations do not preclude speaking to relevant staff on issues of welfare and the next stages of any PSD and IOPC actions.

When a death occurs in custody:

- check for vital signs and consider first aid
- call for medical assistance

If death is confirmed, officers should:

- identify all potential scenes and secure as appropriate
- close the custody record for that detainee and ensure that all future actions are recorded in the scene log
- underline the last entry in the custody record, in red (timed and signed) on paper custody records or secure the electronic record and make a suitable entry on it
- ensure an incident log/report/serial is created and begin a scene log

- call an inspector to the scene
- inform the duty inspector/custody inspector, who then informs custody command or similar as per force structure
- inform CID as applicable
- inform the PSD, as applicable, which will ensure compliance with the statutory requirement to report the incident to the IOPC
- identify witnesses, the last person to see the detainee alive and the person who first saw the deceased detainee – they need to be available as required
- inform the relevant Police Federation and/or staff association representative, who can advise the officers and staff involved and secure legal representation if required
- consider the welfare of officers and staff who have been present/involved in the incident and may be suffering from the effects of psychological trauma and distress
- consider moving detainees who may be witnesses
- consider closing the custody suite and transferring all the detainees
- arrange a critical incident debrief for staff involved after the officers involved have provided their initial account and the needs of the investigation have been met – it may be that this debrief only takes place following conclusion of the investigation

These considerations do not preclude speaking to relevant staff on issues of welfare and the next stages of any PSD and IOPC actions.

When a death in custody occurs in a place other than a police station:

- check for vital signs and consider first aid
- call for medical assistance

If death is confirmed, officers should:

- identify all potential scenes and secure as appropriate
- inform the duty inspector, who then either attends the scene or nominates an officer of inspector rank or above to attend the scene
- inform CID as applicable
- inform the PSD as applicable

- inform the relevant Police Federation representative and/or staff association representative, who can advise the officers and staff involved and secure legal representation if required
- consider the welfare of officers and staff who have been present/involved in the incident and may be experiencing the effects of psychological trauma and distress
- identify witnesses
- arrange a critical incident debrief for staff involved after the officers involved have provided their initial account and the needs of the investigation have been met – it may be that this debrief only takes place following conclusion of the investigation

These considerations do not preclude speaking to relevant staff on issues of welfare and the next stages of any PSD and IOPC actions.

Investigating a death or serious injury in custody

Where an individual has died in police custody, it is in the interests of the public, the police service and everyone involved in the incident that subsequent procedures are open and transparent, and that the integrity of all action can be demonstrated.

Article 2 of the European Convention on Human Rights (ECHR) places a positive duty on the state to investigate any death (or serious injury) at the hands of the state. To satisfy Article 2, the investigation must be effective. The European Court of Human Rights has held that this investigation must:

- be on the state's own initiative (ie, not civil proceedings) ([Nachova v Bulgaria \[2006\] 42 EHRR 43](#))
- be independent, both institutionally and in practice ([Brecknell v UK \[2008\] 46 EHRR 957](#))
- be capable of leading to a determination of responsibility and the punishment of those responsible
- be prompt ([Angelova v Bulgaria \[2008\] 47 EHRR 7](#))
- allow for sufficient public scrutiny to ensure accountability ([Edwards v UK \[2002\] 35 EHRR 19](#))
- allow the next of kin to participate to the extent required to safeguard their legitimate interests ([Jordan v UK \[2003\] 37 EHRR 2](#))
- be capable of determining whether the killing was justified under Article 2, if agents of the state were responsible

These principles were approved by the House of Lords in the case of [R \(on the application of Imtiaz Amin\) v Secretary of State for the Home Department \[2003\] UKHL 51](#). The procedural requirements under Article 2 ECHR can extend to any situation in which death (or near death) or serious injury of a detainee occurs. For further information see [post-incident procedures](#).

Article 2 ECHR and investigating a death in custody

Established in the case of *Edwards v UK*, the essential purpose of an Article 2 investigation is:

- to secure the effective implementation of the domestic laws which protect the right to life, and
- in those cases involving state agents or bodies, to ensure their accountability for deaths occurring under their responsibility

See also [Anguelova v Bulgaria](#) [2004] 38 EHRR 31 and [Jasinskis v Latvia](#) [2010] ECHR 1.

Forces must consider the welfare of staff, other detainees and the relatives of the deceased, in addition to the needs of the ongoing investigation.

[Article 3](#) of the ECHR prohibits torture and inhuman or degrading treatment or punishment. This is an absolute right and is particularly relevant in a police custody environment. The European Court of Human Rights has established similar principles with regard to the investigation of violations of Article 3.

For further information, see [Article 2 fact sheet](#).

Statutory duty to refer to the IOPC

There is a statutory duty to refer incidents to the IOPC where:

- persons have died or been seriously injured following some form of direct or indirect contact with the police
- there is reason to believe that the contact may have (directly or indirectly) caused or contributed to the death or serious injury

There may be cases that do not involve a complaint or conduct matter when initially referred to the IOPC, but all deaths and successful interventions (untoward incidents) will be investigated. The IOPC assesses the seriousness of the case, whether investigation is in the public interest and

determines the appropriate form of investigation. These are as follows:

- independent investigation
- managed investigation
- supervised investigation
- local investigation

Further information on investigating complaints and potential misconduct can be found in the [**IOPC statutory guidance to the police service on handling complaints**](#). Forces must make a mandatory referral without delay and in any case not later than the end of the day after the day it first becomes clear that it is a matter that must be referred.

Regulations 4, 6 and 7 of the [**Police \(Complaints and Misconduct\) Regulations 2012**](#) state:

‘Without delay’ means immediately, which will be as soon as the force becomes aware of the death or serious injury, unless there are exceptional reasons why this is not possible.

The IOPC determines the mode of the investigation, ensuring an independent investigation of the matter and that it adheres to Article 2 ECHR. It is important to immediately assess community impact considerations.

A death in custody should be investigated independently to adhere to Article 2. Police forces need to be aware that they need to refer quickly. If they fail to refer without delay, an inference may be drawn when the IOPC is looking at the time delay as part of its investigations and determining whether there is any misconduct.

Corporate Manslaughter and Corporate Homicide Act 2007

Under the [**Corporate Manslaughter and Corporate Homicide Act 2007**](#), a police force is guilty of an offence if the way in which its activities are managed or organised:

- causes a person’s death
- amounts to a gross breach of a relevant duty of care owed by the organisation to the deceased

A police force will be guilty of an offence under this section only if the way in which its activities are managed or organised by the senior management is a substantial element in the breach.

An individual cannot themselves be guilty of aiding, abetting, counselling or procuring the commission of the offence of corporate manslaughter.

Where suicide has occurred and the judge has found that the police force held a relevant duty of care for the detainee, a jury must decide whether the police force is guilty of corporate manslaughter under the Act.

Duty of care

A relevant duty of care includes a duty owed to a person who, by reason of being a person covered by [section 2](#) of the Corporate Manslaughter and Corporate Homicide Act 2007, is someone for whose safety the organisation is responsible.

A person is owed this duty of care if he or she is:

- detained at a custodial institution or in a custody area at a court, a police station or customs premises
- detained in service custody premises
- detained at a removal centre, a short-term holding facility or in pre-departure accommodation
- being transported in a vehicle, or being held in any premises, in pursuance of prison escort arrangements or immigration escort arrangements
- living in secure accommodation in which he or she has been placed
- a detained patient

Duty of care to officers and staff

Incidents involving death in police custody are likely to attract public and media interest, and can be emotive and stressful for all involved. As a consequence, both the investigative function and the chief officer's duty of care to officers and police support staff involved must be afforded a high priority.

The duty of care to officers and police staff extends to welfare, physical, psychological and medical support. In addition, police staff associations have arrangements for providing advice and support to officers and staff. In facilitating the provision of these services, investigating officers, post-incident managers and staff association representatives have distinct roles. It is, however, essential that all officers, post-incident managers and those involved in any debriefing process are able to

demonstrate integrity of purpose in all communications between each other and in record-making and debrief procedures.

Securing evidence

The responsibility for securing evidence and taking appropriate action in an Article 2 investigation remains with the police service until such time as the IOPC takes over the investigation.

Where death of a detainee in police custody has occurred, officers and staff must take reasonable steps to secure all relevant evidence, including witness testimony and forensic evidence. Forces should adopt procedures designed to demonstrate integrity of purpose in all actions and discussions between the officers and staff involved.

It is the responsibility of the police force being investigated to facilitate the investigation by, for example:

- identifying and preserving the scene and exhibits
- identifying immediately available witnesses
- securing any physical evidence
- having experienced family liaison officer(s) available or victim and witness support

Any deficiency in the investigation which undermines its ability to establish the circumstances of the case and any responsibility is liable to fall short of the required measure of effectiveness.

If a death has occurred outside the police custody suite, such as at the scene of an incident following arrest, officers must secure the scene as soon as is practicable. This will assist in maintaining the integrity of the scene, defuse any tensions at the scene and enable the force to attend to post-incident issues, including those of evidence and welfare.

Officers and staff involved in the incident should attend a suitable location where post-incident procedures will take place.

Initial accounts

Where police officers or staff make an initial account they should, subject to any legal advice that they are given, do this as soon as practicable. Officers should record accounts in writing and time, date and sign them.

This initial account should only consist of their individual recollection of events and should, among other things, state what they believe to be the facts. This account should also provide information on any use of restraint or force (such as CS incapacitant spray or Taser conductive energy device) and why it was considered necessary and proportionate to use such force, based on the honestly held belief of the officer.

Officer responsibility

It is the responsibility of each individual police officer and staff member involved in the incident to ensure that any information that may be relevant to the investigation is disclosed, recorded and retained. This information should include the person's own observations relating to the incident and any accounts received from witnesses (such as custody staff, other officers, escort staff, court staff, members of the public and other detainees).

Detailed accounts

Staff involved should not normally make these immediately, but should leave them until they are better able to articulate their experience in a coherent format. This is usually after at least 48 hours.

As a matter of general practice, staff should not confer with others before making their accounts (whether initial or subsequent accounts). The important issue is to individually record what their honestly held belief of the situation was at the time of death. If, however, in a particular case a need to confer on other issues does arise, to ensure transparency and maintain public confidence, staff must document that this has taken place. The record should include the:

- time, date and place where conferring took place
- issues discussed and with whom
- reasons for such discussion

There is a positive obligation on the staff involved to ensure that all activity relating to the recording of accounts is transparent and can withstand scrutiny. See also [APP on conferring](#).

Where an officer or staff member has any concerns that the integrity of the process is not being maintained, they must immediately draw this to the attention of the person in charge of the post-incident process, and ensure that this is documented.

Effects of witnessing a traumatic incident

Officers or staff who have been involved in a traumatic incident often experience a range of physiological and psychological responses which may determine their perception of time, distance, auditory and visual stimuli and the chronology of key events. This may affect their ability immediately after the incident to recall what may be an important detail.

Where, over time, officers and staff recall more information, they should record this in a further account.

Learning the lessons

Police forces must have established policies and procedures to ensure that deaths and successful interventions are reported, recorded, investigated and analysed. In addition, they must collate, disseminate and implement the lessons learnt. Forces should follow the lessons, even when the incident is not being investigated as a conduct matter or complaint.

For further information, see [Learning the lessons](#) and actions taken by forces in response to the IOPC recommendations on the IOPC website.

Tags

Detention and custody