

Investigation of Road Traffic Deaths - Lord Advocate's Guidelines

GUIDELINES BY THE LORD ADVOCATE ON THE INVESTIGATION OF ROAD TRAFFIC DEATHS

Background

1. The following guidelines by the Lord Advocate have been prepared to assist the Chief Constable in the investigation and reporting of road traffic deaths. The guidelines complement guidance issued to Procurators Fiscal on the investigation of such deaths.

Reporting

2. When a fatal road collision has occurred, the Death Report should be submitted to the Scottish Fatalities Investigation Unit (SFIU) the following working day. However, in exceptional circumstances such as a major incident, or where the circumstances of the collision are likely to raise significant public concern, immediate telephone contact should be made with SFIU during working hours or with the on-call depute out of hours who will decide whether the attendance of a Procurator Fiscal is required at the locus, and whether any other immediate directions on the investigation are necessary. Should the police require specific advice or direction in any case in advance of submitting the Death Report, they may still contact SFIU during working hours or the on call Fiscal out of hours.

3. Enquiries must be made to establish whether the death occurred in the course of the deceased's employment and this should be addressed in the death report. The report should identify the nearest relatives of the deceased and provide their full contact details. The report should also record whether or not the drivers involved were respectively:

- the holders of driving licences, either full or provisional; and if provisional, whether the conditions of said licence were being complied with at the time of driving
- disqualified for holding or obtaining a driving licence (the issue of a disqualified driver driving under the conditions of a provisional licence to allow a driving test to be re-taken must be addressed)
- insured in terms of Section 143 of the Road Traffic Act 1988

A standard production release note should be included as part of the death report.

4. On attending at a collision, Police Officers should take a statement from a driver and other witnesses in order to investigate the circumstances of the collision. However, if there are reasonable grounds to suspect that an individual, including a driver, has committed an offence, questioning should only take place once the

suspect has been cautioned and afforded their rights to legal advice. If the interview takes place subsequent to the submission of the Death Report, a copy of the interview must be submitted to SFIU at the earliest opportunity.

5. Where a Collision Investigation Report is being drafted, the report should be completed and submitted within 28 days. If for any reason the Road Policing Unit anticipates difficulty in meeting this target, contact should be made with SFIU to discuss the matter in advance, with a view to agreeing a revised date for submission of the report.

6. The Collision Investigation Report should be dated and should identify the two authors of the Report. All statements should also be dated.

Fatal collisions involving Police Officer

7. In all road deaths involving a vehicle driven by a police officer, special constable or member of police support staff in the course of their duty or employment, the Police Independent Review Commissioner (PIRC) should undertake supervision of the initial investigation into the circumstances of the death. In the case of suspected criminality, the investigation will be overseen by the Criminal Allegations Against the Police Department (CAAP-D); in respect of a deaths investigation, by SFIU.

Investigation by the Procurator Fiscal

8. Should a decision be taken by COPFS that a prosecution will follow as a result of a collision, SFIU will contact the Reporting Officer and instruct that the potential accused is cautioned and charged and that a Standard Prosecution Report is submitted.

9. The Standard Prosecution Report should be submitted within 14 days of the instruction being received from SFIU. Should the Reporting Officer anticipate difficulty in meeting this target, contact should be made with SFIU to discuss the matter in advance, with a view to agreeing a revised date for submission of the report.

10. Police Officers must not charge an accused in a fatal road collision until they are instructed to do so by the Procurator Fiscal.

11. Police officers will detail the need for any further examination by external experts in the Death Report, where this is known. If the need for further examination becomes apparent at a later stage in the investigation, after the Death Report has been submitted, the Procurator Fiscal will be contacted at the earliest opportunity. The need and payment for such experts will be discussed and agreed with the Procurator Fiscal within SFIU in advance. Where such a specialist report is required from an external expert the police will inform and agree with the Procurator Fiscal a target date for the submission of the specialist report to the Procurator Fiscal.

Vehicle seizure and release

12. Where a vehicle involved in a fatal collision has been seized for the purposes of a vehicle examination it should not be released to the owner without prior written instruction from SFIU.

Collision Investigators

13. In any fatal road traffic collision where a Collision Investigation Report is submitted to the SFIU as described in the section on "Reporting" above, the collision investigator must have been trained in accident reconstruction and investigation and received a vocational qualification as a consequence of this training.

Prosecution

14. The Road Traffic Fatalities Investigation Unit (RTFIU), a department of SFIU, will be responsible for the preparation of cases involving road traffic fatalities. Those prosecuting road deaths may visit the locus prior to the trial. The police will facilitate such attendance, and, if required, arrange for the attendance of the reporting officer and collision investigator. In addition, the police will provide a range of visual recordings of the locus at the time of the collision. Such evidence may also be used as productions in the case.

Bereaved Families

15. Police officers should follow any guidance issued by the Lord Advocate in connection with bereaved families such as the Family Liaison Charter.

16. Any enquiries from a bereaved family about Fatal Accident Inquiries should be directed to SFIU. Police officers should not enter into discussion with family members about the holding of a Fatal Accident Inquiry.

17. In appropriate cases, and when a mutually convenient meeting can be arranged, the reporting officer (or Senior Investigating Officer) and/or collision investigator should attend meetings held between SFIU with a bereaved family. The police officers are expected to be able to explain any technical terms and conclusions that have been reached in their reports, and deal with associated questions.

Implementation

18. These guidelines were first issued on 1 August 2002; revised on 18 August 2008 and again on 5 December 2017

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