

PIRC INDEPENDENT INVESTIGATIVE PROCESSES FOLLOWING POLICE USE OF FIREARMS

Introduction

This paper has been produced to take cognisance of the report by His Honour Judge Keith Cutler Assistant Coroner on the 29th May 2014 in respect of the shooting of Mark Duggan by the Metropolitan Police. Judge Cutler's report contains a number of concerns in the IPCC Independent Investigation immediately following the shooting. The purpose of this document is to identify learning opportunities and give clear guidance of what is expected of the PIRC Investigation Team following such a shooting by officers of Police Scotland.

Investigative Function

In the initial stages following the discharge of a police firearm, Police Scotland must in line with the European Convention on Human Rights (ECHR) Article 2, take all appropriate steps to reduce any possible risks of the investigation being undermined by any deficiencies, such as failing to secure all available evidence. Procedures adopted should be designed to demonstrate integrity of purpose in all actions and discussions between the officers involved and be able to withstand scrutiny.

The responsibility for securing evidence and taking appropriate action in an Article 2 investigation remains with Police Scotland until such time as the PIRC has taken over conduct of the investigation.

Early notification to PIRC will ensure appropriate procedures are adopted and initial actions required by Police Scotland are communicated at an early stage.

Police Scotland Use of Firearms

Police use of a firearm can be defined as -

- discharge a firearm
- presentation a firearm at a person
- discharge a CED (Taser)
- discharge of CS Gas

PIRC can be directed by COPFS to investigate any incident where contact with the police has led directly or indirectly to death or serious injury. COPFS has responsibility for the investigation of all sudden and unexplained deaths.

In the absence of COPFS instruction, the PIRC on referral by Police Scotland will consider whether or not to investigate the police use of a firearm.

Police Scotland must inform PIRC timeously when a conventional firearm is discharged or presented.

Initial PIRC response to an incident whereby Police Scotland discharge a Firearm causing Serious Injury / Death.

Following such an incident Police Scotland will immediately notify COPFS and the PIRC. COPFS will determine the mode of investigation. Police Scotland will appoint an Initial Investigating Officer (IIO) and continue to preserve the scene until the PIRC is directed by COPFS to assume primacy for the investigation (including the scene) and conduct an independent investigation into the circumstances of the firearms discharge/shooting.

PIRC INVESTIGATION - SCENE

The PIRC Senior Investigating (SI) should attend at the scene of such a shooting / discharge and assume overall control.

It is appreciated that such an incident could occur in a more remote geographical area of Scotland and it may be a number of hours before PIRC personnel can arrive at the scene. In these circumstances the Police Scotland IIO will continue to preserve the scene ensuring that all available evidence is secured (or in the case of the fear of it being lost, seized) and take responsibility for the initial investigation until responsibility is transferred to the PIRC SI.

In the circumstance where PIRC attendance at the scene may be delayed the PIRC SI should communicate with the IIO in order to direct management of the scene (details of the discussion/direction will be noted as policy). All communication will be documented to ensure future accountability.

PIRC SCENE MANAGER

A trained and experienced PIRC Scene Manager will be appointed. The PIRC Scene Manager's initial actions will be to consider the circumstances of the incident and in consultation with the PIRC SI produce a Scene Investigation Strategy which he/she will deliver on behalf of the SI.

The strategy will ensure that the locus is photographed / video recorded capturing all evidence in-situ and where appropriate aerial and '360 degree' photography should be utilised.

Any Scene entry log already in place by Police Scotland should be discontinued and held as a production. A PIRC Scene Entry Log should be raised and maintained throughout the duration of the scene investigation by a PIRC Investigator.

The suitability of the INNER and OUTER CORDONS which will already have been put in place by Police Scotland will be assessed as will the COMMON APPROACH PATH.

Police Scotland should maintain a uniform police presence to ensure the security of the outer cordon.

The PIRC Scene Manager should liaise with the Police Scotland scene manager and establishes what Specialist Forensic Services have been requested by Police Scotland prior to PIRC arrival ensuring that there is an identified rendezvous established that is suitable for the attendance of those required at the scene.

Whilst PIRC will have primacy in relation to the investigation into the police shooting/ discharge, Police Scotland may have a duty in relation to the scene in terms of another criminal offence, i.e. the person shot by the police is concerned in firearms offences or has committed another crime at the scene. In these circumstances a policy decision should be made by the police and PIRC Sis to ensure the scene is managed to maximise evidence retrieval for both investigations.

PIRC PRODUCTIONS OFFICER/S should seize and accurately record and label all productions from the scene as directed by the PIRC Scene Manager.

A PIRC Investigator performing the role of **SCRIBE** will shadow the PIRC SI and record all requests/instructions made by the PIRC SI, capturing the time and date, details of person requested/instructed and any reply / comment made in response to the request/instruction.

PIRC INVESTIGATION AT THE POST INCIDENT MANAGEMENT (PIM) SUITE.

The PIRC Senior Investigator attending at the scene will deploy a Post Incident Management (PIM) aware member of PIRC staff to the Police Scotland Post Incident Management Suite.

Ideally a PIRC Investigator **SCRIBE** will shadow and record all requests / instructions, timed and dated made by the PIRC PIM aware Investigator.

A PIRC Scene Manager / Production Officer(s) will also attend at the PIM Suite and seize any firearms /production identified as relevant.

Police Scotland has six PIM suites at the following locations,

WEST



EAST

[REDACTED]

[REDACTED]

NORTH

[REDACTED]

[REDACTED]

[REDACTED]

It is generally anticipated that the Police Scotland Officers involved post shooting will already be located at the PIM suite by the time of arrival of PIRC personnel.

The PIRC PIM Aware Investigator on attendance at the PIM Suite should identify himself to the Police Scotland Post Incident Manager. The purpose of the Police Scotland Post Incident Manager role is to facilitate, manage and ensure the integrity of the Police Scotland post incident procedure.

During a post incident investigation, the PIRC PIM Aware Investigator will, at an early stage, wish to identify the principal officers directly related to the decision to use force.

As the investigation unfolds, others involved in the operation, whose actions or decisions were involved in informing or making critical decisions, may be regarded as principal officers.

The PIRC PIM Aware Investigator should be informed by the Police Scotland Post Incident Manager of any references being used to protect the anonymity of the Police Scotland Officers involved which may be being utilised at these early stages.

Unloading of Weapons

Where possible the unloading of any weapons and securing of same involved in the incident should be video recorded and undertaken in a manner which maintains the forensic integrity of productions.

Discussion will take place between the PIRC Senior Investigator and the PIRC PIM Aware Investigator to determine which weapons require to be secured as productions.

Any firearm / ammunition seized by PIRC during the investigation will, once secured within a ballistic safe container, then be placed within a PIRC production bag and sealed using a PIRC security tape seal.

Conferring

As a matter of general practice, Police Scotland Officers should not confer with each other before making their accounts (initial or otherwise). There should be no need for an officer to confer with others about what was in their mind at the time force was used.

If, however, in a particular case a need to confer on other issues does arise, then, in order to ensure transparency and maintain public confidence, this must be documented including time, date, place, issues discussed, by whom and the reason(s).

The Police Scotland PIM Manager should have reminded the officers involved in relation to conferring. The PIRC PIM Aware Investigator should ensure that this has been done and document/record when asked of the Police Scotland PIM Manager and note his/her reply.

Minimum Deployment of PIRC Personnel

Scene

Senior Investigating Officer
Scribe
Scene Manager
2 Production Officers

PIM Suite

PIM Aware Investigator
Scribe
Scene Manager
Production Officer