

DEATHS IN POLICE CUSTODY

Consultation paper on revising the definition of categories of deaths of members of the public during or following police contact

Introduction

1. It is essential that every death of a member of the public which occurs during or following some form of contact with the police is recorded and reported. This helps enable proper and transparent processes of investigation to be carried out. It also supports public confidence in the police by demonstrating the seriousness with which such deaths are viewed. Finally, it illustrates the commitment to ensure that the causes are understood, lessons are learned and appropriate action is taken in relation to anyone whom it is alleged may have contributed to such a death.

The current system

2. The current Home Office definition of deaths in police custody (see Appendix 1) is extremely broad. It is the basis for the statistics which we publish annually and was drawn up with the understandable intention of ensuring that all deaths involving any sort of contact with the police were recorded and publicised as such. However, that approach can reasonably be criticised on the grounds that it implies that the number of persons dying “in custody” is much higher than is actually the case.

3. Dividing deaths into two categories, A and B, was an attempt to ensure a distinction between those where there was direct contact with the police and those where it was less immediate. However, that has not prevented a tendency for the whole set of deaths to be inappropriately lumped together, at least in terms of broad public perceptions.

New reporting proposals

4. The proposal (see Appendix 2) is to publish information about deaths in four categories:

- Fatal road traffic incidents involving police officers.
- Fatal shooting incidents involving police officers.
- Deaths in police custody.

Appendix A

- Deaths following other types of contact with the police.

5. We are currently including in our statistics cases where people die in road accidents whilst attempting to avoid arrest. This category can be difficult to define, particularly as it is sometimes doubtful whether those involved in the accident were aware of being pursued. Such incidents should be clearly distinguished from deaths in custody, while broadening the category to cover all fatal road traffic incidents involving police officers would provide a more comprehensive picture.

6. We are also currently including deaths resulting from shooting incidents. This covers circumstances both where a person shoots himself whilst police officers are in attendance and where police officers fire the fatal shots. None of these are really deaths in custody in any reasonable sense of the term and a separate category seems warranted.

7. The new proposals seek to draw a further distinction between deaths in police custody where there has been some element of detention exercised by the police and “deaths following other types of contact with the police” where the person concerned was never actually detained.

8. One key category to be retained within the core definition of deaths in custody is where the person dies in or on the way to hospital following or during transfer from police detention. Many of those suffering injuries or other medical problems whilst in police custody are rightly moved to hospital, but it would distort the statistics if subsequent deaths were not recorded as taking place “in custody”.

9. We are also proposing to include circumstances where the person dies after leaving police detention and it is alleged there may be a link between that detention and the cause of death. These cases are small in number but frequently contentious. There would be scope to remove an individual case from the statistics in due course if an inquest or investigation established that the death was not in fact connected to the period of detention.

10. The category covering “deaths following other types of contact with the police” will inevitably be very broad. However, we think that is right in that it should encompass any situation where the police had some involvement with the person concerned in the period running up to their death, but which fell short of detention.

11. The following table illustrates how the existing statistics for 1999/00 and 2000/01 would have broken down between the four proposed categories. (Figures in brackets represent ethnic minorities.)

Appendix A

	Fatal road traffic accidents involving police officers	Fatal shooting incidents involving police officers	Deaths in police custody	Deaths following other types of contact with the police
1999/2000 (70 deaths)	22 (0)	6 (0)	29 (8)	13 (1)
2000/2001 (52 deaths)	18 (8)	2 (0)	23 (2)	9 (1)

12. The proposals in this paper would broaden the definitions of traffic deaths and deaths following other types of contact. Totals in those categories would therefore tend to be higher, but they would be clearly distinguished from deaths in custody as such.

Timing

13. As regards timing, we would hope to introduce whatever new system is agreed in time for the annual reporting period beginning on 1 April 2002. We would need a significant lead time to enable forces to inform their officers of the new arrangements and conduct appropriate training.

How to submit comments

14. Comments should be submitted to John Unwin at the following address by 31 January 2001.

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A list of those receiving this consultation paper is attached.

Police Powers and Procedures Section
Home Office
December 2001

CURRENT DEFINITIONS

Category A is defined as:

Where the deceased is in police detention as defined by Section 118 (2) of the Police and Criminal Evidence Act 1984. That is, for the purposes of the Act, if:

- he has been taken to a police station after being arrested for an offence; or,
- he is arrested at a police station after attending voluntarily at the station or accompanying a constable to it,
- and is detained there or is detained elsewhere in the charge of a constable, except that a person who is at a court after being charged is not in police detention for those purposes.

This category also encompasses deaths of those under arrest who are held in temporary police accommodation and those who have been taken to hospital following arrest. It also includes those who die, following arrest, whilst in a police vehicle.

Category B is defined as:

Where the deceased was otherwise in the hands of the police or death resulted from the actions of a police officer in the purported execution of his duty. This category includes, for example, deaths which occur:

- when suspects are being interviewed by the police but have not been detained;
- when persons are actively attempting to evade arrest;
- when persons are stopped and searched or questioned by the police;
- when persons are in police vehicles (other than whilst in police detention);
- when persons are in police custody having been arrested by officers from a police force in Scotland exercising their powers of detention under section 137(2) of the Criminal Justice and Public Order Act 1994;
- when persons are in police custody having been arrested under section 3(5) of the Asylum and Immigration Appeals Act 1993;
- when persons are in police custody having been served a notice advising them of their detention under powers contained in the Immigration Act 1971;
- when persons are convicted or remanded prisoners held in police cells on behalf of the Prison Service under the Imprisonment (Temporary Provisions) Act 1980;
- when there is a siege situation or ambush;
- when persons are in the care of the police having been detained under the Mental Health Act; and,

Appendix A

- when children or young persons are in police protection under the Children Act 1989.

PROPOSED DEFINITIONS

Definitions of four categories of deaths of members of the public during or following police contact

1. Fatal road traffic incidents involving police officers

This definition covers all deaths resulting from road traffic incidents involving the police, both where the person who dies is in a vehicle and where they are on foot.

2. Fatal shooting incidents involving police officers

This definition covers the following categories:

- Where police officers fire the fatal shots;
- where a person shoots himself whilst police officers are in attendance.

3. Deaths in police custody

This definition covers the deaths of persons who have been arrested or otherwise detained by the police. It also includes deaths occurring whilst a person is being arrested or taken into detention. The death may have taken place on police, private or medical premises, in a public place or in a police or other vehicle.

Deaths in the following circumstances are amongst those covered by the definition:

- where the person dies in or on the way to hospital (or some other medical premises) following or during transfer from police detention;
- where the person dies after leaving police detention and it is alleged there may be a link between that detention and the cause of death;
- where the person is being detained for the purposes of exercising a power to stop and search;
- where the death is of a child or young person detained for their own protection;
- where the person is in the care of the police having been detained under the Mental Health Act 1983;
- where the person is in police custody having been arrested by officers from a police force in Scotland exercising their powers of detention under section 137(2) of the Criminal Justice and Public Order Act 1994;
- where the person is in police custody having been arrested under section 3(5) of the Asylum and Immigrations Appeals Act 1993;
- where the person is in police custody having been served a notice advising them of their detention under powers contained in the Immigration Act 1971;
- where the person is a convicted or remanded prisoner held in police cells

on behalf of the Prison Service under the Imprisonment (Temporary Provisions) Act 1980.

4. Deaths following other types of contact with the police

This definition covers the following categories:

- where the person dies in or on the way to hospital (or some other medical premises) following contact with the police, but the person was at no stage detained by the police. This excludes circumstances where the police have attended at a road traffic incident;
- where the person dies after some form of contact with the police which did not amount to detention and it is alleged there may be a link between that contact and the cause of death;
- where the person is being spoken to, assisted by or accompanied by police personnel, but has not been detained;
- where officers attend the scene of an incident (other than a road traffic incident), but the individual has not been detained;
- where the person is actively attempting to evade arrest and the death occurs otherwise than as the result of a road traffic incident;
- where there is a siege situation or ambush and the death occurs otherwise than as a result of a shooting.

The above categorisations cannot be considered completely exhaustive. Cases will still have to be considered individually to decide whether and how they should be recorded.

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