

PE1501/C

Date: 12 February 2014

Your Ref:

Our Ref:



Chief Constable
Sir Stephen House QPM

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CONSIDERATION OF PETITION PE1501 – RIGHT TO MANDATORY PUBLIC INQUIRY

Dear Stuart

On behalf of Police Scotland I have considered the above petition and the attached written questions at the request of the Scottish Parliament Public Petitions Committee.

- ***What are your views on what the petitions seeks and the issues raised during the discussion at the meeting on 14 January?***

I shall begin by highlighting that the investigation of death in Scotland is at the instigation of the Lord Advocate and the statutory independence of the COPFS ensures that all police investigations into all sudden deaths are subject to independent scrutiny by the COPFS. The COPFS instruct the police to carry out investigations on their behalf. At the conclusion of those investigations and where the cause of death remains unascertained or where a determined cause is disputed, then decisions on the disposal and sharing of information rest with the COPFS and not with Police Scotland. The decision to hold a fatal accident inquiry (FAI) in such circumstances is at the discretion of the Lord Advocate.

Police Scotland is committed to ensuring that all our communities are provided with consistent and professional investigations which demonstrate integrity and ensure public confidence in the delivery of all investigations.

The investigation into the death of an individual carries the greatest responsibility in the public interest and Police Scotland is committed to providing timely and accurate information to the families of the bereaved.

All sudden deaths are investigated by Police Scotland and are subject of a detailed written report to the Scottish Fatalities Investigation Unit (SFIU) of COPFS. Reports detail the exact nature of the circumstances surrounding the discovery of the death, witness statements and any medical records. Thereafter the SFIU can direct Police Scotland to carry out additional investigations.

All deaths are subjected to daily scrutiny by supervisors and all those which do not offer a natural or non-suspicious explanation are subject to a rigorous process which includes supervision and scrutiny from experienced senior investigators. This standard prevails across all of Scotland's communities.

In every such circumstance Police Scotland recognise the right of families to information in respect of the death of a family member. For investigations where the cause of death is anticipated and where no criminality is suspected, information would be provided for by the initial officers who investigated the death. The nature of the circumstances under investigation may place restrictions on the extent to which we can share information and each investigation has to consider and record decisions. In those cases where criminality is suspected, Police Scotland must recognise the public interest and careful consideration must be given in respect of the information which can be shared with families. In these circumstances Police Scotland continually try to maintain proportionality between the family's right to be kept informed and the restrictions of legal process.

In cases where criminality is suspected, Police Scotland has a policy of deploying specialist trained officers known as family liaison officers (FLOs). These officers are dedicated to working with victims' families and record all interactions including the information which had been shared with the family. Decisions to share information are made by the officer in charge, who is known as the Senior Investigating Officer and all decisions are recorded.

On the inception of Police Scotland the Specialist Crime Division (SCD) was created with the strategic objective of providing specialist investigative support on an equitable basis across Scotland. As a consequence Police Scotland has introduced a number of key operational changes which I believe, considerably strengthened the operational response to the investigation of death. In particular, the introductions of the specialist teams across the country, which are supported by strategic national oversight, have increased consistency in the overall standard of investigations. The increased specialisation is also mirrored within the COPFS with the introduction of their federated units which include dedicated specialist teams for death SFIU) and homicide (federated homicide units.)

- ***Please detail how you engage and consult with family members in the current process?***

The manner in which Police Scotland engage with the families is primarily determined by the nature of the circumstances surrounding the death and by virtue of the initial assessment as to whether natural cause, accident or criminality is considered to have resulted in the death.

The majority of death investigations including those resulting from accidents are handled by the constables who attend and carry out the initial investigation. Under supervision, these officers submit written reports to the Scottish Fatal Investigation Unit (SFIU) of the COPFS. Initial liaison with the next of kin is conducted by these officers and they ensure that the family are informed of the legal requirements in respect of certification of death and the role of the procurator fiscal. In general terms, this is likely to be the only contact the family will have with the police where the cause of death is quickly established and no criminality is suspected. Such determination will only be possible after the result of post mortem is known and accepted by COPFS.

In cases where the cause of death is unascertained but where no suspicious circumstances are immediately evident, Police Scotland's response and support to families is similar to that described above. The contact with the family will remain with the officers who initially attended until the result of post mortem examination is known.

In circumstances where evidence appears to support self-inflicted injury or accidental death then these situations are also dealt with in the manner described above.

At any stage in the investigation of a death where criminality is suspected, Police Scotland will respond immediately by appointing specialist trained officers known as family liaison officers (FLOs) as a point of contact with the family. These officers will remain available to the family throughout the police investigation until a stage is reached when the liaison is passed to the Victim Information and Advice unit (VIA) of the COPFS. During the police investigation, FLOs have direct access to the senior investigating officer and all contact with the family and information shared is recorded and reviewed. This process is nationally recognised and is adopted throughout the United Kingdom as the most professional and appropriate manner with which to engage with the families of victims of crimes. Additionally this process is utilised where death results from possible dangerous or careless driving, in cases of natural disaster and in some instances where death occurs overseas.

FLOs are not routinely deployed in circumstances where self-inflicted injury is initially considered the cause of death.

- ***The petitioner seeks to involve the families in the whole process with full access to information. What more can be done to meet the concerns of family members, short of holding an FAI?***

Police Scotland respect the right of the families to challenge us where they feel they are not being provided with the information they seek.

Police Scotland encourages officers, acting within the limits of the law, to share appropriate information with families. Where families are dissatisfied with the standard of service received they can ultimately follow the formal complaints process, which is referred to as 'Complaints About the Police' (CAP). Additional avenues to complain exist through the newly created Police Investigations and Review Commissioner (PIRC) who can conduct a complaint handling review.

Police Scotland is mindful of the independent position of the COPFS and our constitutional role in respect of the investigation of deaths requires Police Scotland to report the circumstances to the COPFS. Police Scotland recognises that it is a matter for COPFS to determine whether they are satisfied with the conduct of the investigation. Similarly, any decision on communication with families in respect of the outcome of investigations, including where independent expert opinion has been sought or with regard to decisions relating to cause of death are ultimately a matter for the COPFS.

In the interest of providing information to families, Police Scotland will continue to support the COPFS in meeting with families, when requested to do so. On occasion and at the invitation of the COPFS, senior investigating officers meet with relatives to discuss the outcomes of investigations. Police Scotland recognises the value that families can derive from being able to speak directly with officers involved in the investigation.

I can confirm that Police Scotland will not comment on the constitutional question in respect of the timing for the holding of FAI.

- ***What is your view on the suggestion that inquests similar to the coroner system in England be introduced?***

During his presentation to the Committee the Petitioner was supported by a retired senior detective with considerable related experience in England. He argued for consideration of adoption of the English Coroners system believing that it represented a model of independence which did not currently exist in Scotland. The retired officer made reference to his experience as a senior investigating officer and also highlighted that he had experienced duty at the fire at the Bradford Football Stadium. He also sought to emphasise his experience of investigating death and his knowledge of the English Coroners system to influence the committee. He also suggested that Scotland lacked independence and the introduction of a similar coroners system would address this.

Having limited knowledge of the Coroner system I will not comment directly on the suggestion. I will however refer directly to the reference to the Bradford

fire and draw a comparison with the 'Hillsborough' tragedy. The Hillsborough tragedy was of a similar magnitude and resulted in the loss of 96 lives.

The Coroners court system was relied upon at the time to independently represented bereaved families.

Subsequent public review and now an on-going criminal investigation tragically highlight that no system is completely flawless and that all systems rely on the integrity of those who are empowered to administer such processes to ensure that they do so in the public interest.

Police Scotland recognises and respects the independence of the COPFS and the position of the Lord Advocate in the administration of the current Fatal Accident Inquiry process. It is the position of Police Scotland that we do not recognise the need for further consideration of the English Coroners system.

Yours Sincerely

Malcolm Graham
Assistant Chief Constable
Major Crime and Public Protection