



Crime Investigation

Standard Operating Procedure

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10.00	Police Act 1997 changed to Investigatory Powers Act (IPA) 2016 in Section 23.4 and 23.5. Appendix 'K' updated with reference to IPA.	27/11/2018
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1. Purpose

- 1.1 This Standard Operating Procedure (SOP) supports the Police Service of Scotland, hereafter referred to as Police Scotland, Crime Investigation Policy.
- 1.2 This SOP provides Officers / Police Staff with a general guide to the investigation of crime. This guide is not an exhaustive list for investigators but is designed to assist investigators in where to seek guidance on specific matters.
- 1.3 Where a crime has been committed it is the duty of the Police to trace the offender and bring them to justice. Police Scotland recognises that the investigation of crime requires a high degree of cooperation between all departments/stakeholders/partner agencies to achieve this goal.
- 1.4 In addition to the information contained herein, further guidance can be found in the legislation and documents summarised in Appendix 'K' and Appendix 'L' respectively.

2. Completion of Crime Report / Crime File (Or Equivalent)

- 2.1 It is the duty of a Constable to take such lawful measures and make such reports to the appropriate prosecutor, as may be needed to bring offenders with all due speed to justice (Section 20(1)(d) Police and Fire Reform (Scotland) Act 2012).
- 2.2 The first officer attending the scene of a crime will generally be responsible for ensuring that a Crime Report / Crime File is raised in accordance with the Crime Recording SOP. It is also the responsibility of the first response officers to carry out initial investigations including obtaining witness details and statements, scene preservations, evidence recovery and arrest of any perpetrators at the locus or nearby vicinity.
- 2.3 In instances where immediate assistance from the Criminal Investigation Department (CID) is required, the attending officer should immediately notify the CID and their supervisor, via the Control Room to afford the CID the opportunity to attend the locus. In the following circumstances the CID must be notified:
 - Suspicious Deaths - Homicide, Drug Related Deaths, Suicide, Fatal Fires etc;
 - Attempted Murder;
 - Serious Assault;
 - Robbery / Attempted Robbery;
 - Sexual Crimes;
 - Abduction / Attempted Abduction;
 - Crimes where Firearms are involved;

- Death in Police Custody;
 - Sudden Unexplained Death in Infancy (SUDI);
 - Bogus Workmen;
- 2.4 This list is not exhaustive and officers should consult CID where clarification is required.
- 2.5 Good initial enquiry at the locus is essential. If such action is undertaken and all information recorded on the 'enquiry update' section of the crime report, this may negate the need for further enquiry by other officers.

3. Allocation of Enquiries

- 3.1 Where a Crime Report / Crime File is raised, the Crime Manager (or equivalent) will determine the allocation of crime reports/files to ensure that professional and thorough enquiries are carried out. All enquiries are to be channelled to the enquiry officer via their line manager, through the recognised Crime Management System in each Local Policing Area.
- 3.2 Crime Reports / Crime Files (or equivalent) should be monitored and checked by line managers to ensure that they are maintained to a consistently high standard, that enquiries are completed and that resultant Standard Police Reports (SPR2) are transmitted timeously. Refer to Case Reporting SOP for guidance on reports to the Procurator Fiscal (PF).
- 3.3 Where no SPR2 is being submitted, enquiry updates should be submitted to reflect that all avenues of investigation have been exhausted in an attempt to trace the perpetrator; this will inform subsequent enquiry officers in the event that a person is detected at a later date.
- 3.4 Where officers are abstracted or otherwise unable to complete the appropriate enquiries, it is the responsibility of the line manager to ensure that the crime report is reallocated to an appropriate officer within their shift/group or via the Crime Manager. Such reallocation and the reason for same should be detailed on the report.
- 3.5 Where it becomes apparent that a suspect to a crime is a serving police officer or member of police staff from anywhere in the UK, the Professional Standards Department should be notified without delay.
- 3.6 Where the suspect is from a force outside Scotland, the Professional Standards Department will notify the relevant Force. In such instances all records relating to the case should be restricted. Refer to Complaints About The Police SOP.

4. Locus Management

- 4.1 Any activity at a scene prior to the deployment of a Crime Scene Manager (CSM) has a direct bearing on the success or otherwise of any subsequent forensic activity. Crime Scene preservation is paramount in any investigation.
- 4.2 The control of a scene of a major incident/investigation will fall to the CSM at the earliest opportunity, once allocated by the Senior Investigating Officer (SIO). Further information and guidance is contained within the Crime Scene Management Manual of Guidance. The following information is intended for initial attending officers.
- 4.3 One of the most crucial aspects of any investigation is the effective management of its scenes. This is necessary in order to realise the full potential of all forensic opportunities that may assist in determining the events or solving the matter under investigation.
- 4.4 Forensic evidence may be compromised by the lack of basic scene preservation procedures. It is vital to protect a scene immediately upon arrival by taking firm and active steps to prevent unnecessary and unauthorised entry.

4.5 Initial Actions by Police

- 4.5.1 Without prejudice to the primary function of the police, which is to preserve life, where death or life threatening injury is reported and the circumstances appear criminal, unexplained or suspicious, or some other serious crime is apparent, the scene should always be approached and treated as such until the evidence determines otherwise. **If in doubt, assume the worst case scenario.**
- 4.5.2 An immediate assessment should be made on whether a scene needs to be entered. If entry is unavoidable, an assessment should then be made of the best route to be taken to preserve any trace evidence left on the route(s) likely to have been taken by an offender. This is the first phase in establishing a **Common Approach Path (CAP)** and should as far as possible be used by any other persons who have a legitimate and necessary reason for entering (i.e. medical personnel for the preservation of life).

4.6 Preservation of Life

- Preservation of life takes primacy over all other police duties.
- As appropriate to the circumstances, medical assistance should be called immediately and first aid rendered to any victim.
- Provide medical attention to any injured person(s). Where possible, minimal damage and interference should be caused to the scene.
- Officers should note the position and any interference of the injured person who may be removed for medical care.
- Any items disturbed or moved to facilitate the preservation of life should be identified and the original and eventual positions noted.

- When medical personnel attend, the first police officer(s) at the scene should advise them on the CAP.
- Record details of any medical or emergency service staff attending the scene along with any actions undertaken.
- It is likely that the donning of full Personal Protective Equipment (PPE) by the first police officer(s) at the scene and emergency medical personnel will delay the rendering of medical assistance. They should, however, **always wear disposable gloves** and, if time permits, protective overshoes to limit any disruption to the scene. Such gloves and overshoes should be appropriately packaged and retained as productions.

4.7 Preservation of Scene

- Identify the scene and its parameters, identify routes taken (or likely to have been taken) by suspect(s), victim(s), witnesses and medical staff, bearing in mind that there may be more than one crime scene.
- Secure the scene as soon as possible by excluding any unnecessary access.
- Cordon the scene. This will be on a case-by-case basis, however, officers should consider the setting of large area cordons as these can always be reduced. Where a cordon is too small, evidence cannot be later recovered. Make use of police incident tape, individual officers, vehicles, road blocks etc. to secure the locus.
- Commence a Scene Entry Log of persons entering and exiting the cordoned area. Include the time, date and reason for their visit.
- Protect the scene against disturbance by humans, animals and the elements. Consider inclement weather conditions for outdoor loci. SPA Scene Examiners should be consulted for any requirements for specialist protection if required urgently.
- Identify a Rendezvous Point (RVP). Officers should remember the entry route they (or anyone else who has entered the scene) have taken to the crime scene and inform the SIO/CSM/CID officers of the same in order to establish and maintain a CAP.
- Exclude any unnecessary persons (including police officers irrespective of rank and police staff) attending the scene.
- Do not touch or disturb anything unless necessary for the preservation of life or the apprehension of a suspect.

4.8 Secure Evidence

- Record details of any witnesses; this could include local residents, passers-by, tradesmen, family/associates of victim/suspect etc.
- Details should include descriptions, actions at the crime scene and initial accounts of the events. Officers should obtain a statement from witnesses (taking direction from the SIO, CID or supervisors where required).

- Each situation must be assessed and consideration should be given to, for example, any injuries sustained by the witness and the requirement for medical attention, the age and vulnerability of the witness, the ability of the witness to provide a statement at the time.
- It may be possible at this time to obtain full statements from witnesses, however, it may only be possible to obtain brief details from the witness and a full statement will be required at a later time/date.
- Precautions must be taken where evidential capture causes danger to officers and/or members of the public.
- Consider weather and inclement weather conditions for outdoor scenes/evidence. If possible, any significant item(s) should be left in situ and suitably protected until photographed and forensically recovered. If this is not possible then the item(s) should be recovered as soon as possible and all necessary precautions taken.
- Do not cover bodies. If in public view either remove the public or utilise screens or a forensic body tent if available.
- The clothing and possessions of any victim taken to hospital must be retained by police and packaged appropriately to preserve any forensic evidence. Details of medical staff removing these items and handing them over must be recorded and labels of identification signed to ensure the continuity of this evidence is maintained.
- Where a victim succumbs during transportation to hospital or during medical treatment within a hospital, the default position should **NOT** be to seize the place in which the victim died as a crime scene. Such actions reduce the capacity of the NHS and/or Scottish Ambulance Service to respond to medical emergencies thus having a wider impact on preservation of life.
- Any decision to seize such a vehicle or facility must be crucial to progress the investigation of a serious crime and be proportionate in the circumstances. The officer making such a decision must fully understand the forensic value involved and if not, immediate consultation must be undertaken with the duty or on-call Detective Inspector.

4.9 Identify Victim

- If possible, speak to the victim. Ask witnesses who may be able to provide the identity of the victim. Relevant precautions should be taken when searching the victim's clothing at the initial stage.
- Consider other sources of information; voter's roll, PNC, vehicles, CHS2, visible tattoos, local knowledge of police officers.

4.10 Identify Suspects

- This is a priority when securing initial evidence. To avoid cross-contamination, officers who attend the initial crime scene should not be tasked to affect the arrest of a suspect, unless the suspect is present at the crime scene and it is unavoidable. Where this occurs it should be highlighted to the CSM and SIO as soon as possible.

- 4.11 Once the preservation of life aspect no longer applies **ALL** persons entering the crime scene **MUST** wear full Personal Protective Equipment (PPE) at all times in a scene that requires forensic examination until it has been agreed between SIO/CSM/Crown Office and Procurator Fiscal Service (COPFS) and Forensic Services SPA that the forensic examination phase of that scene is complete.
- 4.12 Full PPE **MUST** be donned in the following specific order to reduce the risk of cross contamination at a crime scene:
1. Facemask (and Beard Snood if required)
 2. Hair Net/Mob Cap (and Hard Hat if required)
 3. Safety Glasses (where appropriate)
 4. Gloves (Inner Pair)
 5. Crime Scene Coveralls
 6. Overshoes/Overboots
 7. Gloves (Outer Pair)

Further information and guidance on counter contamination is contained in the DNA Counter Contamination Guidance Document.

- 4.13 The SPA provides Scene Examiners who assist in police investigations into all levels of criminality including major incidents and disasters. The Scene examiner will provide advice and assist in formulating an examination strategy.
- 4.14 The first Police Officer(s) at the scene **MUST** be debriefed and should therefore not terminate duty unless spoken to by detective officers or released by the SIO.

5. Arrest

- 5.1 Officers should be familiar with the current process and procedures in relation to **arrest under the terms of Section 1 of the Criminal Justice (Scotland) Act 2016** and voluntary attendance at a police station of a Not Officially Accused Person (Suspect) and Officially Accused Persons, full guidance on which can be found within the Criminal Justice (Scotland) Act 2016 (Arrest Process) SOP. Officers should be fully aware of the current Police Scotland Solicitor Access Guidance Document.
- 5.12 In addition, Solicitor Access Guidance relates to any questioning conducted of a Not Officially Accused Person, and includes those who are under arrest and require to be questioned in relation to a separate crime. This is covered within Sequential Arrest at section 7 of this SOP.

6. Investigative Liberation

- 6.1 The Criminal Justice (Scotland) Act 2016 allows for a **Not Officially Accused Person (NOA)** formally known as a suspect, who is suspected of committing a relevant offence, punishable by imprisonment, to be arrested and liberated on more than one occasion under the same set of circumstances up to a maximum cumulative time of 12 hours.
- 6.12 Force Policy has been developed to address the need for extensions to a NOA beyond the cumulative total of 12 hours up to a maximum extension 24 hours. See Criminal Justice (Scotland) Act 2016 (Arrest Process) SOP.

6.2 Not Officially Accused (NOA)

- 6.2.1 It must always be at the forefront of all Investigating Officers minds to progress full and thorough enquires as quickly and efficiently as possible. This includes NOA interviews, gathering of forensic samples and other physical evidence that supports the arrest of the offender, and where appropriate caution and charge them where a sufficiency of evidence exists.

6.3 Further Enquiry

- 6.3.1 The Act provides that where a NOA has been arrested on suspicion but, after initial enquiries a sufficiency of evidence does not exist to justify continued arrest, or any further enquiry cannot be concluded within the initial 12 hour period the NOA arrest rendering them subject to unnecessary further detention, then the NOA must be released from custody without delay unless the Investigating Officer (IO) can justify their continued arrest with the time limits laid out by the Act.
- 6.3.2 The options open to the IO at this stage are liberate the NOA from police custody without conditions, or make a formal application for imposition of Investigative Liberation conditions.

6.4 Liberation from Custody - Not Officially Accused

- 6.4.1 Where a decision is taken to liberate a NOA to allow further enquire there are two liberation options available for use.
- 6.4.2 In deciding what how best to liberate the NOA the IO should take the following factors into consideration:
 - a. risks posed if the NOA is liberated,
 - b. further enquiries required to establish a sufficiency of evidence,
 - c. likely timescales for completing these enquiries
- 6.4.3 The overriding aim must be to manage risk and protect victims, witnesses and the public whilst also ensuring that a person's Article 5 – Liberty and Security rights are observed.

6.5 Standard Liberation – Default Position

- 6.5.1 If after conducting the above assessment and there is no investigative risk associated with the NOA release then it will be force policy that NOA will be released without the imposition of Investigative Liberation conditions.

6.6 Requirement for Investigative Liberation

- 6.6.1 Where an IO decides that after assessing all associated risks posed by the proposed liberation of a NOA to facilitate further enquires, they believe that in so doing is likely to impact upon their ability to “***ensure the proper conduct of the investigation***”, then they can make application under sec 16 of the Act to the Custody Sergeant for the imposition of Investigative Liberation conditions.
- 6.6.2 The use of Investigative Liberation (IL) is in the main a matter for the IO to consider against the demands of their investigation, and must not be used as a “holding” position during an investigation.
- 6.6.3 There are no restrictions on the types of crime or offences for which IL may be used.**
- 6.6.4 Where IL conditions are imposed, they will last for a maximum of 28 days from imposition, automatically ceasing to apply from that time or, if within that initial period, the NOA is arrested again in relation to the initial set of circumstances, at which time, the IL conditions will automatically be removed from the Criminal History System (CHS) via the National Custody System (NCS) at the time their arrest is authorised.

6.7 IL - Investigative Planning

- 6.7.1 The responsibility for the application and future administration of IL will be undertaken by the Investigating Officer (IO) in overall charge of the crime for which the NOA was arrested.
- 6.7.2 IO's should at the earliest opportunity, where possible, include within their investigation planning the potential for the use of Investigative Liberation, particularly in relation to victim welfare.
- 6.7.3 When considering the use of IL, the IO must balance the advantages of its use against any possible risks to the conduct of the investigation including potential risks to the victim, witnesses.
- 6.7.4 All risk considerations must be recorded within the crime report enquiry update field and must include any communication with the victim and or witnesses that the NOA release may impact upon.
- 6.7.5 Particularly in cases involving Domestic Abuse, any decision made must be balanced against the wider force guidance on domestic abuse investigation – Domestic Abuse Toolkit.

- 6.7.6 Early discussion with line managers should be sought to ensure that any proposed use of IL is necessary and proportionate, and that release without imposed conditions would not be more appropriate. This will mitigate the potential need for radical amendments or alteration of any future IL conditions authorised by the custody sergeant.

6.8 IL - Application Process

- 6.8.1 When considering an application for IL, the IO must be able to demonstrate how the imposed conditions will support the proper conduct of the investigation during the maximum allowed period of imposition of 28 days from first point of imposition, and must be able to demonstrate that there is a realistic expectation that their investigations will be concluded within that time period although ultimately they may not generate a sufficiency of evidence to prefer a charge.
- 6.8.2 Where IL is used in cases that require forensic or other specialist examinations to identify potential evidence, early communication with those specialist departments is recommended to ensure that the results can realistically be achieved within the 28 day period of IL imposition, with all communications recorded within the enquiry update field of the relevant crime report.
- 6.8.3 There are no set standard conditions for Investigative Liberation (IL) and it is not competent to impose conditions to specify a person must be at a particular place at a set time however, IL conditions can prevent an NOA from approaching directly or by third party means witnesses, victims or specific areas that continue to be subject to police investigations, whether this be witness interviews or locus examinations.**

6.9 Necessity and Proportionality

- 6.9.1 Any conditions considered by the IO must be necessary and proportionate to ensure the proper conduct of the investigation for which the NOA has been arrested.
- 6.9.2 Section 14, 2 (a) & (b) of the Act provides guidance in relation to necessity and proportionality around arrest and continued detention however, necessity and proportionality when used to support any application for IL conditions requires the IO to specifically focus on whether:
- the conditions applied for are necessary and cannot be achieved by other means, and
 - are proportionate when measured against the actions requiring to be achieved.
- 6.9.3 When formulating IL conditions the IO must determine whether they can justify their imposition to achieve the appropriate balance between ECHR Article 2 – right to life and Article 8 – right to privacy.

6.9.4 Necessity

In order to justify the application the IO needs to cover three main points:

- crime / offence / circumstances (“the event”) under investigation, and
- NOA(s) / offender(s) / witness(es) / victim(s) (“the person”) and how the person(s) is/are linked to the event, and
- What they intend to achieve during the period of the IL conditions (28 days).

6.9.5 Proportionality

Applicants must outline what they seek to achieve by obtaining IL conditions and how if authorised they will benefit the investigation.

The two basic questions:

- What will the imposition of IL conditions allow the IO to do within the 28 day period that they couldn’t do by continuing the arrest of the NOA or release without IL, and
- Are the IO’s expectations realistically achievable within that time period..

6.10 Sufficiency of Evidence – Release on IL

- 6.10.1 On most occasions where an IO has a sufficiency of evidence to report an NOA they will prefer relevant changes and report the Officially Accused to COPFS using the prescribed methods of reporting.
- 6.10.2 There may however, be circumstances, that due to other related outstanding enquires, the potential exists for the IO to obtain additional inculpatory or exculpatory evidence that further supports their investigation. In these circumstances the IO may make an application for the imposition of IL conditions to protect the those enquiries as long as there is still time within the 28 day period of any previously used IL process. This would allow the IO to continue to ensure the proper conduct of the investigation ultimately leading to the submission of a stronger case to COPFS. This tactic is seen as of benefit in some cases, and particularly in instance of Domestic Abuse where a pattern of offences are suspected.
- 6.10.3 The application process for IL in these instances remains as previously described and is for the IO to justify the use of IL.

6.11 Investigating Officer – (IO)

6.11.1 Investigative Liberation Application Form

General

All applications for the imposition of IL conditions will be made in writing using:

- Form 048-005 Investigative Liberation - Application Form
- which, when complete, will become a case related document.

The IO will populate Part 1 of the on-line form, and then print it off and present it directly to the officer of at least the rank of Sergeant who is in overall charge of the NOA detention in police custody and is unconnected to the matter under investigation.

It is considered good practice for the IO, at the earliest opportunity to make the custody sergeant in overall charge of the NOA's care of the likelihood of their intention to submit an IL application to allow the proper review of the applied for conditions to be undertaken without impacting upon the investigative clock and other Custody area business.

6.11.2 IL Part 1 – Custody Details

The IL application form is a 5 part document and will be hand written. The IO should complete part one of the IL Application Form, including the unique prisoner reference numbers as generated by the National Custody System which will be provided to them by the Authorising Officer.

They must include full details of the nature of their investigation, and a list of conditions they wish imposed upon the NOA.

The conditions must be necessary and proportionate to ensure the proper conduct of the investigation and may include that the NOA:

- **Is not to be in a specified place at a specified time, or**
- **Is to remain out with a place, or any place falling within a specified category for a specified period, or**
- **Is not to contact a named person or group either directly or by third party means including email, text or social media sites**

It must be the belief of the IO that the applied for conditions are essential and they can demonstrate how the IL conditions will ensure the proper conduct of the investigation is protected.

6.11.3 NOA Notification

The formalisation of Investigative Liberation conditions is for the Investigating officer to decide, not agree with the NOA or their legal representatives.

It will be the responsibility of the IO for the matter under investigation to, at the earliest opportunity during their interactions with the NOA and their legal representative to advise them, where appropriate, of the likelihood of an application for the imposition of IL conditions.

In doing so the NOA and or their legal representatives will have an opportunity to provide comment on the proposed IL conditions, potentially mitigating the need for future appeals against the conditions. This will also provide an opportunity to informally agree future attendance dates at the police station to continue enquires. (**Note:** IL cannot be used to compel a NOA to attend any future interviews).

Once the IO is satisfied that their IL application is an accurate representation of their investigation and its future needs, they must present the completed form to the Authorising Officer (AO) in charge of the NOA custody care of at least the rank of Sergeant who will conduct a review of the application.

6.12 Authorising Officer – (AO)

Custody Officer In overall Charge of the NOA Arrest – Minimum Sgt Rank

6.12.1 IL Part 2

Authorisation of Proposed Conditions – Custody Officer (At Least Sgt Rank)

It will be the responsibility of the AO, upon application by the relevant IO, to review Form 048-005 Investigative Liberation - Application Form, and if satisfied that the conditions detailed are necessary and proportionate to ensure the proper conduct of the Investigation they may:

- **Authorise the imposition of Investigative Liberation conditions**
- **Amend the stated conditions to better reflect the necessity and proportionality of the need for said conditions.**

Where the AO refuses the application for conditions they can direct that the IO to:

- **Release the NOA without conditions or**
- **Continue the section 1 arrest to allow the IO to continue enquires, utilising the remainder of the 12 hour arrest clock and any subsequent extension if appropriate but only if they consider it necessary to refuse the NOA liberty from custody.**

Once the IO has been advised of the AO decision they will be required to sign the application form acknowledging they are content to continue with the application, and only once this has been completed then will the Custody Officer progress the IL application to release the NOA.

6.12.2 National Custody System

The AO will populate the National Custody System which will generate:

- **Form 048-006 Investigative Liberation – Not Officially Accused Copy**

and provide the NOA with a copy at their point of release. The location of the relevant Sheriffdom where an IL appeal should be lodged will be added to the rear to the NOA's copy for their future reference.

The AO will record the time the NOA is officially released from police custody and add this to the IL application form which will then be returned to the IO for retention as a case related document.

6.13 Re-Arrest of NOA under Original Circumstances

- 6.13.1 If as a result of further enquires, an NOA is arrested again in under the same set of circumstances that lead previously to the imposition of IL conditions, at the point of section 7 authorisation of the arrest by a custody sergeant, the imposed IL conditions will automatically be removed from CHS via the link with NCS.
- 6.13.2 If after further enquires, the NOA is to be released from Police custody, and the IO wishes to impose IL conditions, either new or similar conditions to those previously imposed then they submit a new Form 048-005 Investigative Liberation – Application Form to the custody sergeant for consideration.
- 6.13.3 Any new IL conditions authorised will on last for the remainder of the original 28 day imposition period.

6.14 Management of IL Conditions

6.14.1 Investigating Officers Responsibilities

Upon receipt of the IL Application Form from the AO the IO must immediately notify either directly, or by email, the IL Reviewing Officer (RVO) who should be their line manager of at least Inspector rank of the existence of the live IL conditions, and at the earliest opportunity deliver to that officer the IL Application form for review.

6.15 Crime Report/File

- 6.15.1 It is the responsibility of the IO to fully, and continually update the crime report enquiry fields with all actions undertaken during the investigation relating to the IL conditions imposed including:
- **Initial recording and incorporation of IL into the reasonable lines of enquiry planning**
 - **All updates and communication with RVO concerning the progression and management of IL conditions**
 - **All IL appeal related information including, any early indication of the likelihood of an appeal being lodged**

6.16 Victim Strategy and Communication Responsibilities

- 6.16.1 It is solely the responsibility of the IO to provide all relevant information relating to the use of IL including real time notification of IL condition updates to the victims of crime and how, if any, the imposition of conditions may impact upon them.
- 6.16.2 Where possible, it is essential that the imposition of IL conditions is communicated to victims and witnesses prior to the release of the NOA from police custody. It is appreciated that this will not be possible in all instances therefore, where this is not achieved appropriate arrangements must be made by the IO to have any material changes to IL conditions, and how they may impact upon the victim/witnesses communicated to them as soon a reasonably practical with all efforts recorded accurately for future reference.

6.16.3 In some instances, based upon the circumstances of the investigation, the failure to notify a victim of the intended use of IL may result in the police having to continue to detain the NOA in custody, and either continue enquiries, recording the reasons for not liberating them or charging the NOA and detaining them until their appearance at court. This is an operational policing matter and any decision taken will be dependent upon the facts and circumstances of the particular case at that time, with all supporting rationale recorded within the NOA's NCS record and the relevant enquiry update of the crime under investigation

6.17 Additional Police Action in Support of IL Conditions

6.17.1 Any actions taken to provide added assurance to victims must be, where appropriate, communicated to them by the IO and accurately and timeously recorded within the crime report enquiry update to include:

- Notification of IL conditions to the victim, and how delivered
- Changes, modification or withdrawal of IL conditions
- IL appeal notifications and results
- Any concerns raised by the victim / witnesses re IL conditions and or the release of the NOA
- STORM markers for extra attention / urgent response
- Daily Briefing Registers entries

6.17.2 For further guidance in relation to victim support please see Domestic Abuse Toolkit.

6.18 Breach of IL

6.18.1 When IL is imposed upon a NOA, any breach of any of the imposed conditions is an arrestable offence, and as such, unless the breach is considered a minor or accidental breach, will normally require the offender to appear from custody. This decision will be made in conjunction with the custody sergeant.

6.18.2 It will be the responsibility of the arresting officers to report the circumstances of the breach of IL conditions to the relevant prosecutor, ensuring that notification is immediately sent to the IO in overall charge of the IL related investigation.

6.18.3 An arrest for breach of IL conditions does not affect the live conditions which will remain in force and continue to be reviewed in line with the original investigation.

6.19 Cross Border Considerations

6.19.1 Enforcement of Investigative Liberation conditions is confined in general to the normal jurisdiction of the Scottish Legal system and is therefore not routinely enforceable out with Scotland. That said, a breach of IL conditions can still be committed even where either the NOA or a person named within the IL conditions – victim or witness - are out with Scotland as long as a "locus" can be established that is covered by Scottish Legal jurisdiction.

- 6.19.2 An example of establishing a Scottish “locus” can be where a complainer, who at the time of the IL breach is within their home address in the jurisdiction of the Court and is contacted by the NOA who is outwith Scotland contrary to the IL conditions. Where the NOA breaches a condition using a telephone or other communications’ device or social media platform it would be competent to libel a charge of breach of IL and should be reported without delay to COPFS craving a warrant if appropriate.
- 6.19.3 Where both a victim or witness who are mentioned in IL conditions issued to an accused move out with normal Scottish Legal Jurisdiction it is considered good practice for the IA to notify the Police Force where the victim and accused are resident and appraise the force of the existence of the live investigation and the IL conditions to allow that force to make necessary policing decisions based upon the presence of the subjects.
- 6.19.4 All contacts with other forces and information shared must be recorded within the relevant crime report enquiry update field.

6.20 Review of IL Conditions

6.20.1 IL Reviewing Officer (RVO) - Inspector Line Management of Investigating Officer

General

The review of IL conditions must be conducted in perpetuity during the 28 day period of imposition by the IL Reviewing Officer (RVO) and should form part of line management daily business process until the conclusion of the IL process as part of the live investigation.

IL Part 3

IL Conditions Initial Review

Upon notification from the IO of the existence of “live” IL conditions, the RVO must fully apprise themselves with the current position of the investigation and review the imposed conditions to ensure that they remain necessary and proportionate.

Unless there is a significant material change in the circumstances of the investigation since the imposition of IL conditions, the RVO will not make any changes to the imposed IL conditions at this time, however no matter what action is taken during the initial review, all decisions must be accurately recorded and communicated to the IO.

All changes to IL conditions must be communicated to the NOA in writing – Please see **Notification of Change / Amendment / Imposition of Conditions** below for full guidance.

The RVO must thereafter endorse part 3 of the IL Application, recording their decisions on both the form and within the enquiry update field of the crime report and continue this process until the process is concluded.

IL Management Information – Daily Business

The RVO should include all live IL conditions within their daily business review and management information reports to ensure that the progression of the investigations are conducted including proactively addressing:

- **Resourcing of investigations**
- **Allocation of tasks to progress IL related lines of enquiry, and**
- **Maintain an overview of the victim strategy and how the continued imposition of IL conditions are likely to impact upon the victim / witnesses**

Local Command Area Oversight

Each individual Division or Department should establish local management processes for live IL conditions to ensure that appropriate policing action is developed to manage the conditions in conjunction with the ongoing RVO process and ensure that the policy outlined in this SOP is being complied with.

It will be the responsibility of the Reviewing Officer to advise the local policing area that has operational responsibility for the crime under investigation of the existence of the Investigative Liberation to allow operational policing plans to be developed as appropriate to assist with the impact of IL within that area.

6.21 Changes to IL Conditions – Responsibilities

6.21.1 IL Reporting Process – General

The Criminal Justice (Scotland) Act 2016 contains a legislative framework for the notification of all IL condition amendments or alterations to the NOA, which must be communicated as soon as reasonably practicable and in writing within the initial period of 28 days and must contain:

- Any changes to the conditions, including their removal and
- Must specify the time from which the condition is modified or removed.

Although the Act is silent on the definition of “in writing” of IL changes within the initial 28 day period, the following mandatory information management process will be used by Police Scotland.

6.21.2 Notification of Change / Amendment / Imposition of Conditions

Victim / Significant Witnesses

It is the responsibility of the IO to inform the victim and or any effected witness without delay of any IL changes that impact upon them, and all communications must be accurately recorded within the enquiry update of the crime report and reflected in the relevant victim/witness management strategy as appropriate.

Where possible, any changes to IL conditions should be notified to victims and significant witnesses in advance of the notification to the NOA. It is therefore essential that all contact details for the victims and witnesses are accurately maintained to aid this process.

6.21.3 Removal of Conditions - Not Officially Accused

Reduction or Removal of IL Conditions

Where, as a result of the investigative process some or all imposed IL conditions cease to apply, **these changes apply from the moment the decision is made.** This may be as a result of information provided by a witness that when examined against a particular IL condition means that the condition is no longer necessary and proportionate to ensure the proper conduct of the investigation.

Strictly speaking this means that from the moment this threshold is no longer reached, the condition falls, however in reality, this material change has to be physically communicated to the NOA with the Act stating that this change must be communicated in writing.

In all instances of partial or complete removal of imposed IL conditions the IO, will as soon as reasonably practicable, complete:

- Form 048-008 - Investigative Liberation – Update of Conditions on CHS,

detailing the rationale behind the removal request and submitted to their RVO for signoff and onward transmission via the Force Email system using either:

Information has been removed due to its content being exempt in terms of the Freedom of Information (Scotland) Act 2002, Section 30 Prejudice to Effective Conduct of Public Affairs.

for East and North Command based officers; or

Information has been removed due to its content being exempt in terms of the Freedom of Information (Scotland) Act 2002, Section 30 Prejudice to Effective Conduct of Public Affairs.

for all other officers

Criminal Justice Services Division will update CHS in line with the submitted request from the RVO and will then send

- Form 048-009 – Investigative Liberation – Changes to Condition(s)

to the NOA using external mailing Providers

6.21.4 New / More Onerous Conditions

If, as a result of the ongoing investigations by the IO, or review of live IL conditions by the RVO, there is considered a need to impose new or more

onerous IL conditions, it will be the responsibility of the RVO to manage this process.

The RVO must record their decisions in part 3 of:

- Form 048-005 Investigative Liberation – Application Form

Thereafter, they must as soon as reasonably practicable complete:

- Form 048-007 Investigative Liberation – Notification of Increased Conditions, which details the updated IL conditions; and
- Form 048-009 Investigative Liberation – Changes to Condition(s) which is a formal letter of notification as required by the Act and have both these forms hand delivered to the NOA without delay.

6.21.5 CHS Update

Only once the increased conditions have been hand delivered to the NOA by the police will the RVO complete Form 048-008 - Investigative Liberation – Update of Conditions on CHS, and forward via the Force Email system using the most appropriate CJSD email address as listed on the form.

In all cases actions taken by either the IO or RVO must be accurately recorded in the enquiry update field of the relevant crime report and within the 'RVO: section 3' of Form 048-005 - IL Application Form which will be retained as a case related document at the conclusion of the investigation by the IO.

6.21.6 Urgent Amendment of IL Conditions

It is not force policy to permit NOA and or their legal representatives to contact the IO in relation to imposed IL conditions however, it is appreciated that there may, on occasion be extenuating circumstances whereby an urgent review of a condition is required to permit a NOA to undertake a particular action, for example attend and visit a gravely ill relative or keep an urgent appointment that, if the condition was not removed would render them liable to arrest and prosecution for breach of that condition.

In these circumstances, any such request should be directed to the relevant RVO who will assess the request and can, if they choose, amend any imposed condition. It may be the view of the RVO that the request cannot be met, however all decisions made, in relation to any approach to amend IL conditions will require to be recorded within the IL application Form – part 3 and also within the enquiry update of the relevant crime report.

It must be stressed, that although not a legal requirement under the Act, that by enhancing the process of communication with the NOA and their legal representatives at the time of formulating IL conditions is seen as potentially reducing the likelihood of an IL appeal which is detailed later in the SOP.

6.22 Investigative Liberation - Appeals Process

6.22.1 IL Part 4

Initial Notification of an IL appeal

Where a NOA lodges an appeal against the imposition of any, or all IL conditions, the Court where the appeal is lodged will schedule a hearing to take place 7 days later, and will notify Police Scotland and Crown Office & Procurator Fiscal Service (COPFS) of the details, and of the need for a report of the circumstances to be submitted.

Victim Notification

Any appeal notification and resulting court decisions must be continually assessed by the RVO and IO, and where appropriate communicated to the victim or relevant witnesses, and recorded within the enquiry update field of the crime report / file.

6.22.2 Timescales for IL Occurrence Report Submission

From intimation to the police of an IL appeal, the report will require to be submitted to COPFS within 3 days, and therefore the IO will be required to submit their report without delay to the RVO who is responsible for the final review and submission of the IL Occurrence Report, to the local Criminal Justice (CJ) unit.

Where the IO and RVO are unavailable to submit the IL Occurrence Report, it will be for the local CJ unit to review the crime report / file and decide who is best suited to submit the IL report.

Upon receipt of the IL appeal occurrence report from the submitting officer the local CJ unit will, without delay, forward it to the local COPFS for their attention and action.

IL Occurrence Report

The ISCJIS Occurrence Report Template will be used to provide COPFS with information relating to the investigation and the rationale for the imposition of IL conditions and will include:

1. A summary of the facts in the case
2. Any conditions imposed
3. The rationale behind the decision to impose such condition(s) including:
 - a. Details of the further enquiries being carried out and what additional evidence it is hoped will be obtained from them
 - b. Why the conditions imposed are deemed necessary and proportionate for the proper conduct of the investigation, and
 - c. How each condition assists in the proper conduct of the investigation

4. Details of any review process undertaken by the Police RVO including the time that any decision to remove or modify a condition was made and the rationale behind the decision.

Guidance notes / information for inclusion in the Occurrence Report are detailed in Appendix 'J'.

6.22.3 Appeal administration - COPFS

Once COPFS have reviewed the IL Appeal Occurrence report they can either:

- Oppose the Appeal and defend it in court – within 7 days from appeal being lodged, or
- Advise the IO that they do not support the IL conditions as imposed and will not be contesting the IL Appeal

Where COPFS intimate that they do not support the IL conditions, the IO must immediately notify their RVO of the decision. This will allow the RVO to either review and amend the imposed conditions or, if necessary discuss the matter with the COPFS. This will be particularly relevant in serious crime investigations, and may require the RVO to request that the issues be reviewed by a senior representative from COPFS before the IL conditions are revoked.

If after further discussion has been concluded and COPFS maintain their decision, the Police will act as directed and make the necessary changes to the IL conditions, reporting these to the NOA without delay as per procedure.

6.22.4 Court Rulings on IL Conditions

Once the IL appeal has been heard by a sheriff, they may:

- Dismiss the appeal, or
- Uphold the appeal and remove all or amend any conditions

Where an IL appeal is upheld, and IL conditions are amended the court will advise the NOA and or their legal representative of any changes to the impose IL conditions.

6.22.5 Police Responsibilities

The existence of an IL Appeal does not prevent the normal progression of an investigation which may result in the appealed conditions being concluded prior to the appeal hearing and the condition no longer being relevant. If this occurs then the normal process for changes to IL conditions should be followed with additional notification sent using a force Memo to the relevant local COPFS department as the changes may remove the need to hold an appeal hearing.

Notification of changes to IL conditions will be sent to CHS by the court.

Changes to IL conditions made at an appeal will not be automatically sent to the IO/RVO therefore It is their responsibility to ensure that they obtain immediate notification of the outcome of an IL appeal hearing to ensure that changes to IL conditions are incorporated into their investigation and if necessary, appropriate communication is sent to victims and witnesses impacted by the changes.

Any changes must be accurately recorded within the crime enquiry updates and within Form 048-005 – IL Application Form - Part 3 – Additional IL Review Amendments by the RVO and IO as appropriate.

It is considered good practice for the RVO and or IO to check the NOA's CHS record to ensure that any changes to IL conditions as a result of an appeal are accurate.

6.23 Conclusion of IL Process

6.23.1 IL Part 5

It will be necessary to conclude the IL process either

- at the time of any subsequent arrest under the same circumstances
- submission of a police report emanating from the circumstances that lead to the imposition of IL conditions
- at the conclusion of the 28 days period of the IL conditions has elapsed even though the investigation remains live

Where no arrest is made, CHS must be updated to reflect that the investigation has concluded and any live IL conditions must be removed.

In all circumstances, the IO will notify the RVO the reason for the removal of IL conditions, recording their rationale within the relevant crime report enquiry update field and thereafter the RVO will complete section 5 of the IL Application Form, returning this to the IO for lodging as case related document.

7. Interviewing of Suspects

- 7.1 Reference should be made to the Police Scotland Solicitor Access Guidance Document; the current guidance is that a suspect should not be asked any questions which may incriminate them in a crime without prior consultation with a solicitor.

7.2 Health and Safety Considerations

- 7.2.1 Prior to the commencement of a suspect interview, it is the responsibility of the interviewing officers to conduct a review of the location and its surrounding areas, including access and exit routes to and from the interview area to ensure that there are no obvious risks or threats to anyone involved in the interview process.

- 7.2.2 Where risks are identified or are predictable (e.g. violence, aggression (fuelled by sensitive and inflammatory nature or content of interview / past conduct of custody etc), appropriate control measures should be implemented in accordance with any anticipated risk. Seek advice on any Health and Safety matters from experienced supervisor or contact the Health and Safety team.

7.3 Digital Recorded Suspect Interviews

- 7.3.1 All investigative interviews of suspects; Not Officially Accused or Voluntary Attendees **must be** conducted at a police station, and only after the interviewee has been afforded their rights under **Chapter 4 of the Criminal Justice (Scotland) Act 2016**. The interview of Officially Accused Persons is covered at Post Charge Questioning below at section 7.10.

Investigative Interview Aide Memoires must be used in all interviews where DIR equipment is used:

- Form 048-012B Investigative Interview – Recording of Interviews – Aide Memoire
- Form 048-012C Investigative Interview – Remote Monitoring Recording of Interviews – Aide Memoire

- 7.3.2 Where the matter under investigation is likely to proceed on petition interview **should** be digitally recorded by suitably trained officers who have completed their Initial Investigator's Interviewing Course (IIIC) or other previously accredited equivalent training using digital interview recording equipment.

- 7.3.3 A full list of all Force Digital Interview Recording and Remote Monitoring equipment and locations can be found in Appendix 'A'.

- 7.3.4 Additionally, where following assessment of any other investigation; taking account of the seriousness of the incident, available evidential opportunities and the impact the commission of the crime has upon the victim and the community in general, or where criminal conduct involves:

- Domestic abuse
- Offences against children
- Sexual offences
- Hate crime or any aggravation

consideration should be given to the NOA interview being digitally recorded in order that best evidence can be presented during any future proceedings.

- 7.3.5 Where digital recorded interviewing equipment is not readily available, dependent upon the matter under investigation, officers may, to prevent the loss of potential evidence, conduct a contemporaneous written interview, reading over the contents of the interview under digital recorded conditions as soon as they become available, with the decision appropriately recorded within the Remarks section of the SPR2 for the information of COPFS.

7.3.6 Refer to geographical appendices for local administration procedures.

7.4 Vulnerable Adults Suspect Interviews

7.4.1 When questioning a not officially accused who is a vulnerable person or whose ability to understand their rights may be impinged by a mental health condition or learning disability, officers should ensure that an Appropriate Adult is present. The presence of such an independent person will remove any doubt as to the fairness of the interview.

7.4.2 Officers should make themselves aware of the Police Service of Scotland Solicitor Access Guidance Document which states:

‘Any cases involving suspects of any age who require the support of an Appropriate adult must be provided with access to a solicitor prior to interview. Under section 33 Criminal Justice (Scotland) Act 2016 they cannot waive this right.’

7.4.3 Further guidance is available in the Appropriate Adults SOP and Mental Health and Place of Safety SOP and Solicitor Access Guidance Document.

7.5 Children and Juvenile Suspect Interviews

7.5.1 For full guidance relating to the interview of Children and Young Adults and please refer to Criminal Justice (Scotland) Act 2016

7.5.2 Children under 16 are only rarely prosecuted in the courts. Interviews with child suspects should therefore not be taped or visually recorded unless the offence falls within one of the categories of offences listed in the Lord Advocate’s Guidelines to the Chief Constable on the Reporting to Procurators Fiscal of Offences Alleged to have been Committed by Children.

7.5.3 If the case is subsequently referred to the Children’s Panel the Reporter may request access to the DVD if required. This will be obtained via the PF.

7.6 Provision of Interpreter for Suspect Interviews

7.6.1 In cases where English is not a suspect’s first or preferred language then consideration must be given to engaging the services of an interpreter. In addition to any language issues, cultural and religious sensitivities should be addressed where possible.

7.6.2 Officers should make reference to the Interpreting and Translating Services SOP, Equality and Diversity SOP and Police Scotland’s Diversity Booklet - A Practical Guide.

- 7.6.3 Each case is required to be judged on its own merits and decisions should be documented in the Management Policy book during Major Incidents / Investigations. For example, with regards to those persons wearing the niqab or veil, sensitivities should be borne in mind to the cultural significance attached to the wearing of the veil and removing it within the presence of males. This information must be in the officer's notebook, justifying why it is necessary for the veil to be removed.
- 7.6.4 Where an interpreter is present during questioning their full details should be noted, entered as a witness on the crime report and in any subsequent police report and a statement noted from them regarding their involvement.

7.7 Interview after Charge – General Principles

- 7.7.1 Officers should be mindful that any questions and answers provided by an accused after caution and charge will be inadmissible. However, there is nothing improper in police officers asking specific questions particularly in relation to a missing child or to recover stolen property; the Police have a duty and a public expectation in relation to such recoveries. The courts may allow evidence of the recovery to be made if the prosecution conceals the source of the information and the evidence is deemed to be fair to the accused.

7.8 Sequential Arrest

- 7.8.1 The Criminal Justice (Scotland) Act 2016 replaced the separate arrest and detention powers with a Section 1 power of arrest for a Not Officially Accused Persons (NOA) of having committed a relevant offence. The arrest requires authorisation of a constable of at least the rank of sergeant (Section 7) and thereafter the NOA is afforded Chapter 4 rights including consultation and access to a solicitor.

- 7.8.2 It is force Policy that no NOA can be subject to more than one concurrent arrest process or interviewed in relation to an unrelated crime investigation for which they had been originally arrested for.**

7.8.3 Police Scotland Force Policy

Where an NOA is held under a section 7 authorisation, the Act permits the NOA to be interviewed in relation to other crimes or offences as long as they are afforded additional chapter 4 rights.

In furtherance to the requirements of the Act, Police Scotland, working in partnership with COPFS and the wider the Criminal Justice business area, have developed a robust policy and supporting operational guidance that must be followed by all officers when interviewing an NOA already held within police custody on unrelated matters.

7.9 Authorisation to Arrest – Sequential Arrest

7.9.1 Not Officially Accused

Where investigating officers require to interview an individual who they NOA of having committed a relevant offence as defined by the Act, and that NOA is already legally held as Officially Accused (Charged) within police custody they must, in all instances, make representation to the custody officer in charge of the NOA care and welfare, detailing their intentions to arrest the NOA under the terms of a section 1 arrest to facilitate their investigation.

7.9.2 Custody Sergeant

It will be for the Custody Sergeant to decide if the application to arrest is necessary and proportionate and would not adversely impact upon the NOA care and welfare at that time. Only once the section 1 arrest is approved, will investigators be granted access to the NOA. All sequential arrests will be managed within the National Custody System and linked to the parent prisoner record.

It will be for the custody sergeant in charge to decide if it is appropriate for the NOA to be interviewed based upon their custody record however, unless the matter is one of urgency, no sequential arrest authorisation will be granted when the NOAs status is that of Not Officially Accused until that original arrest is concluded, either as a result of caution and charge or liberation. (See Not Officially Accused below).

7.9.3 Investigating Officer

Applications for Section 1 arrest authorisation will require the investigating officers to articulate their reasons for suspicion and why it is necessary and proportionate to arrest the NOA at that time. This can be to facilitate an interview or seize relevant physical data, but in all instances this request must be related to the crime under investigation.

7.9.4 NOA Chapter 4 Rights

If the sequential arrest is authorised the NOA will be afforded their rights; notification, legal consultation and consent to interview with a solicitor as per procedure, which will clearly identify within the National Custody System that the sequential arrest is separate from that for which they were initially arrested and held in custody.

7.9.5 Not Officially Accused – Urgent Interview Request

If the “NOA” to be sequentially arrested is held in police custody as “Not Officially Accused”, unless the sequential arrest relates to a grave matter and is of an urgent nature (eg. threat to life, recovery of vulnerable people etc.,) before any sequential arrest process is initiated, the “Not Officially Accused” status must be stopped, the NOA “notationally” liberated and the new section 1 arrest application commenced.

Once the sequential arrest has been concluded, then the original arrest should, if still considered necessary be re-commenced and processes through to its conclusion.

This decision will be made only after both the SIO requesting the sequential arrest, the Custody Officer and the section 1 arrest SIO have discussed the implications and impact of temporarily concluding the initial arrest in favour of the sequential arrest, so as to not adversely impact the initial investigation.

If agreement is reached to invoke the above described process then the custody officer will review any subsequent arrest as previously presented within the original section 1 arrest guidelines as normal, using the section 14 PIN test:

- **Presence** – is their presence required to allow offence to be investigated as their guide.
- **Interfere** - If liberated, is there a likelihood they would interfere with witness, evidence, or obstruct course of justice.
- **Nature** - Consideration given to nature and seriousness of offence.

7.9.6 Not Officially Accused – Urgent Interview Request

If investigators require to interview an individual already held in police custody for another crime unrelated to their original authorised arrest, a sequential arrest will only be considered when that person's status becomes Officially Accused for the arrested crime.

Where, however, it is considered that due to the grave nature or urgency of a live investigation: threat to life, recovery of vulnerable people etc, there is a need to interview the NOA, the custody sergeant can, if satisfied that the application is justified, and will not adversely impact upon the original arrest investigation, temporarily conclude the original arrest process, "notationally liberating the NOA from that arrest and processing them as an NOA for the urgent matter. This arrest is not a sequential arrest and will take precedence over any other process until it is concluded.

Once this second arrest process is concluded, the custody sergeant can, if they are satisfied that the Section 14 test (PIN) is still relevant, reinstate the original arrest process on NCS using the "Previously Liberated" option.

7.9.7 Criminal Justice and Other Relevant Sample

All Criminal Justice samples – DNA, Fingerprints and impressions must be captured / seized from an NOA under the authority of a section 1 arrest, authorised by the custody sergeant in overall charge of their care and welfare and recorded on NCS and within the enquiry update field of the relevant crime report.

7.9.8 Liberation Options

Once the sequential arrest is concluded, the investigating officer will fully update the custody sergeant with the outcome of the process, including future plans where the NOA has not been officially cautioned and charged. Until then, the investigative clock linked to the sequential arrest will continue to count down until it is stopped within the National Custody System.

Where the sequential arrest has resulted in a caution and charge, the NOA now being Officially Accused, the custody disposal decision for that offence will be made by the custody sergeant.

7.9.9 Investigative Liberation

Even though the NOA is to be held in custody for court on their original arrest, the investigating officer can make application for Investigative Liberation for the sequential arrest if they believe that the conditions applied for are both necessary and proportionate to protect the proper conduct of their investigation even though the NOA will not be liberated at that time. If granted, investigative liberation will be managed as per force guidance – Investigative Liberation Section 6.

7.9.10 Crime Management Recording

All sequential arrests will be recorded against the relevant crime reference number on the appropriate crime management system, detailing all action undertaken by the investigating officers, the investigative clock remaining and any IL conditions imposed.

7.9.11 Linked Investigations

Where investigators require to interview an NOA with regards to a series of crimes that stem from a particular incident, for example a theft by housebreaking, the modus operandi being similar to other crime in an area, the NOA can be competently interviewed about the additional offences during the initial arrest and interview as long as they are advised of the circumstances during their rights, so they can be advised appropriately by their legal representative.

All linked crimes will thereafter be managed under the initial arrest and Investigative clock, with the results recorded against the main crime reference number, and any other cross-referred within the other linked crime enquiry updated fields.

Where investigating officers do not wish to interview an NOA in relation to multiple offences within one interview, they will be required to fully justify their rationale to the custody sergeant at the time of application for subsequent Section 1 arrests, again documenting their actions within the crime record.

7.9.12 Intelligence Interviews

The Act does not impose any conditions on the police in relation to Intelligence Interviews, and it will again be the responsibility of the Custody sergeant to ensure that a prisoners care and welfare are maintained during any interaction with investigators conducting Intelligence Interviews.

7.10 Post Charge Questioning

7.10.1 Operational Guidance for Application and Reporting to COPFS

Police officers are permitted under Section 36(1)(b) of the Criminal Justice (Scotland) Act 2016 in investigations likely to be prosecuted under indictment to make application to interview an Officially Accused person (OA) in relation to the discovery of evidence that was not available, and which could not have been foreseen at the time of their initial police interview before caution and charge.

7.10.2 Crown Office & Procurator Fiscals Oversight

All considerations for the use of Post Charge Questioning (PCQ) by Police Scotland will be directed to COPFS and, where possible in the first instance, be made during normal office hours.

This does not prevent occasions where investigators consider there is an immediate threat to life, or potential of destruction of evidence, it will be for the SIO to take into consideration the time scales associated with a PCQ application balance against the inadmissibility of any interview conducted without PCQ authorisation.

7.10.3 Application Process

There are two distinct processes related to an application for Post Charge Questioning:

- **Police Led**, where the Officially Accused is still being held in police custody prior to any court appearance or has been liberated with or without a written undertaking and
- **Crown Office & Procurators Fiscal (COPFS) Led**, where the OA has appeared in court or a warrant has been granted for their arrest relating to the crime for which they have been charged.

Police Led PCQ Applications (SIO)

Where an Officially Accused, after caution and charge, is still held in police custody, new and compelling evidence is identified by the police which is considered significant to the future development of that investigation and, in the view of the Senior Investigating Officer / Investigating Officers (SIO/IO) should, in fairness be presented to the OA or investigated further within the context of a police interview, the SIO/IO will make representation to the On Call Duty Procurator Fiscal (PF) where it is out of office hours and in exceptional

circumstances, or to the relevant Solemn Legal Manager in High Court or Sheriff and Jury teams to discuss the possibility of a Post Charge Questioning application.

Requirement to Submit PCQ Application Form and Court Documents

If after initial outlining the facts and circumstances, the Duty PF considers the SIO/IO's request for PCQ appropriate, the SIO/IO will prepare subject report (Form 048-011 – Application for Authority to Conduct Post Charge Questioning) and submit directly to the Duty PF for consideration. If on submission the Duty PF does not support the application, then the additional evidence must be added to the original police report which will accompany the OA to court.

PCQ Application Approved By COPFS

Sheriff Authorisation

If, upon review of the submitted PCQ application, the Duty PF supports the application they will make the necessary arrangements for the SIO/IO or their representative to appear before a Sheriff for examination of the PCQ application.

In deciding whether to authorise any Post Charge Questioning a Sheriff will take into account:

- The seriousness of the offence,
- the extent to which the person could have been questioned earlier in relation to the information which the applicant believes may be elicited by the proposed questioning, and
- where the person could have been questioned earlier in relation to that information, whether it could reasonably have been foreseen at that time that the information might be important to proving or disproving that the person has committed an offence.

Completion of Associated Court Documents

Prior to appearing before the Judge or Sheriff the SIO/IO must complete:

- Form 048-011A - Form 66.4-A Application for Authorisation to Question a Person Officially Accused; and
- Form 048-011B - Form 64.4-B Authorisation under Section 35 of the Criminal Justice (Scotland) Act 2016

Completion of Court Forms

The PCQ Applicant officer is required to populate sections of both the **Form of Application for Authorisation to Question** and **Form of Authorisation to Question** which they will hand deliver to the reviewing Sheriff at the time of their examination.

Form 048-011A - Form 66.4-A Application for Authorisation to Question a Person Officially Accused

In general the information required relates to the antecedent information for the OA and details of the offence which they have been charged with.

However, more detailed information and justification for the PCQ application requires to be included in the following sections:

- Part 1 (ii) ...'on the following grounds'.... will be populated with the general information contained within paragraph 3 of the PCQ application form.
- Part 1 (iv) requires the applicant to insert the relevant factors to section 35(3) (b) of the Act to detail:

“The extent to which the person could have been questioned earlier in relation to the information which the applicant believes may be elicited by the proposed questioning”.

This section requires an explanation as to why the new evidence could not have been reasonably foreseen during the initial police interview, and example being:

“As a result of ongoing enquiries, new witnesses have been identified that when interviewed provided previously unknown evidence which has led to the recovery of new and compelling forensic evidence”.

Part 1 (v) requires the applicant to insert the relevant factors to section 35(3) (c) of the Act:

“where the person could have been questioned earlier in relation to that information, whether it could have been reasonably have been foreseen at that time that the information might be important to proving or disproving that the person has committed an offence”.

Following on from the information provided at Part (iv), where the information was known, there may be circumstances that at the time of the initial interview, the SIO/IO could not have reasonably foreseen that the information was significant, but since it has been further developed then it is now considered relevant and merits presentation to the Officially Accused during police interview.

An example of this could be where, although in possession of CCTV images, initial examination discounted the person within however, only after detailed analysis has it been established that the OA is the person seen in the images.

If satisfied with the content of the PCQ application, the Judge or Sheriff will issue Authorisation to Question which the applicant will have prepopulated with the relevant information at parts 1, 2 and 4.

Form 048-011B - Form 64.4-B Authorisation under Section 35 of the Criminal Justice (Scotland) Act 2016

In granting an authorisation to question an OA, aside from standard antecedent information the Sheriff must state within part 4 of form 64.4-B a specific period of time that the OA can be subjected to police interview. It is therefore essential that when making the application, the SIO/IA identifies what time frame, along with supporting evidence that they feel would be required to complete their PCQ investigative interview if granted.

PCQ Court Authorisation and Contents

If approved, a Post Charge Questioning Authorisation to Question will be signed by the Judge or Sheriff setting out the conditions under which the police may question the Officially Accused to include:

- Authorisation period
- Court conditions, which the court will decide based upon the PCQ application

7.10.4 Management of Court Authorised Documentation

All court issued documents and associated authorisations will be retained as case related documents by the reporting officer.

7.10.5 Continuing Responsibility to Communicate Discovery of New Evidence

The introduction of Post Charge Questioning does not replace the requirement for an SIO/IO to timeously notify COPFS via the case reporting system standard subject report template of the recovery of any new evidence or exculpatory information once an original SPR2 has been submitted to COPFS.

Where as a result of further enquiry, an SIO/IO identifies new and compelling evidence that did not form part of the initial police interview, and they believe that this information should be considered under the terms of Post Charge Questioning, then they must without delay, submit a standard subject report to COPFS detailing the enquiry update, including the possibility of a PCQ application.

A suggested form of words to cover this would be:

“It is respectfully suggested that the new evidence detailed in this report may be worthy of consideration of Post Charge Questioning”

In reality, the submission of a subject report should be made after direct communication, either by telephone or email has occurred with the nominated COPFS representative for that case to allow consideration of an application for Post Charge Questioning to be made by Crown. All communications must be accurately recorded within the enquiry update sections of the crime report, or SIO policy file.

It will thereafter be the responsibility of Crown to assess any new evidence or exculpatory material against the current state of the case preparation and, after review, they may submit the PCQ application to the court under the terms of the Act.

7.10.6 COPFS Led Applications

All COPFS led Post Charge Questioning applications will have been made after an Officially Accused Person has made their first appearance at court or where a warrant has been granted for their arrest in relation to that case.

An application for PCQ made by COPFS will not ordinarily require the SIO/IO to attend the hearing before the Judge or Sheriff, however it is considered best practice that the SIO be available to take possession of any PCQ Authorisation, and where necessary an apprehension warrant, and progress the wishes of the court without delay.

7.10.7 Warrant Retention

Dependent upon the circumstances, an apprehension warrant may be issued by the Court for the arrest of the OA if they are no longer in custody or have been remanded to prison.

Where an apprehension warrant has been granted along with the Authorisation to Question, the SIO/IO or their nominated representative will take personal possession of the warrant, and will ensure that the warrant is executed timeously.

The existence of the warrant will not be updated onto PNC to prevent its execution by officers unrelated to the investigation to prevent any negative impact upon the authorised time scales imposed by the issuing Sheriff.

If the OA for whom a PCQ apprehension warrant has been granted is at large, and cannot be readily traced, the SIO/IO must without delay, create a PNC Locate Trace marker in line with current Force guidance and update the relevant Crime Report with all actions taken to trace the Officially Accused Person.

If there is a significant delay in the execution of the apprehension warrant the SIO/IO must provide a written update to the relevant PF Depute in charge of the case preparation.

7.10.8 Arrest and Interview

The authorised period for questioning stipulated within the PCQ Authorisation to Interview relates to the period the Officially Accused can be interviewed. It is therefore essential that the interview is well planned as there will be no extensions permitted to the time granted by the court for the purposes of the interview.

Only those evidential areas referred to in the PCQ application to interview and subsequently authorised by the Judge or Sheriff should form the basis of the PCQ interview. There may however be occasions that during a PCQ interview as a result of answers provided by the OA, the interviewing officers require to further probe areas of the investigation that were not part of the initial authorisation. The decision to continue with this line of questioning will be for the SIO/IO to review and authorise as they see fit, justifying their decisions to COPFS as appropriate.

Where there was a need to issue an apprehension warrant to facilitate the authorised questioning, the warrant will stipulate the length of time the OA can be held in police custody, therefore preventing an excessive period of detention.

All PCQ related apprehensions and interview timings will be recorded within the OA's record managed within the National Custody System and at the conclusion of the process it will be the responsibility of Custody Sergeant to review the person's liberation options.

7.10.9 Reporting the Outcome of PCQ

Where the accused is subject of PCQ before their first court appearance full details of the PCQ interview must be included in the SPR2 submitted to COPFS, detailing the application process within the Summary and a transcript of the salient points within "Interview/Text of Admissions" in the normal manner.

Where the PCQ application is made by COPFS, the outcome of any PCQ interview must be communicated without delay by the SIO/IO to the relevant COPFS personnel in the first instance by telephone or email, and followed up using a the standard subject report format detailing the outcome of the interview including the salient points.

7.10.10 Section 109 Criminal Justice (Scotland) Act 2016 – Statements by the Accused

The use of Post Charge Questioning by the Police does not prevent the OA from exercising their rights under section 109 of the Act, which allows for the OA to make a statement during questioning at police interview which they can then later rely upon as their evidence in chief during any subsequent court proceedings.

7.11 Recording of a Voluntary Statement

7.11.1 Police Responsibilities

An officer of at least the rank of sergeant unconnected with the investigation will be responsible for the completion of the voluntary statement process. Where possible the officer corroborating the obtaining of this statement should also be unconnected to the investigation.

Form 048-012A Investigative Interview – Voluntary Statement – Aide Memoire should be used as a template when compiling a voluntary statement.

7.11.2 Admissibility of Questions during a Voluntary Statement

The OA may be asked questions by the police during the voluntary statement process but only to clarify ambiguities.

7.11.3 Statement Format

The statement must be noted on blank lined paper with each page numbered sequentially, signed by all present with no obliterations or over writing. Any alterations made to a voluntary statement must be initialled by the OA and the officers noting and corroborating the statement and specifically referenced during the recorded reading of the statement.

The OA must be asked if they wish to compile their own statement or wish to have it noted from them by a police officer.

7.11.4 Method of Recording

All voluntary statements will be handwritten by either the OA or, if they prefer the police officer of at least the rank of sergeant who is managing the statement process.

All voluntary statements must, where digital interview recording (DIR) equipment is available be recorded. The DIR, once commenced must be used to record the noting by the police or compilation of the voluntary statement by the OA.

7.11.5 Chapter 4 Rights – Solicitor Access / Consultation

Before the OA makes a voluntary statement and under digitally recorded conditions the following questions must be asked of them no more than one hour before the commencement of the interview:

- Do you wish to consult a solicitor before making this statement?
- Do you wish a solicitor to be present when you make this statement?

The following caution should then be given to the suspect:

“I must remind you that you need not say anything unless you wish to do so but anything you say may be noted and visually recorded and may be used in evidence.”

7.11.6 Conclusion of Voluntary Statement

Once the statement has been given in its entirety, and before the interviewing officer terminates the interview, the following questions must be put to the OA:

- Is that the end of your statement?
- Will you read the statement over to yourself or will I read the statement over to you?

- Do you wish to correct, alter or add anything to this statement?
- Will you now sign this statement indicating that it is true and given of your own free will?

The recording will then be terminated by the interviewing officer following the normal procedure for conclusion of a recorded interview.

The voluntary statement must be treated as a production and the OA asked to sign a production label prior to it being lodged as per the Productions SOP.

7.13 Samples and Caution and Charge

7.13.1 Following COPFS Guidance in November 2011, officers should obtain all samples being taken under Section 18 Criminal Procedure (Scotland) Act 1995 prior to administering a Caution and Charge. Further guidance and information can be located in the DNA Sampling and Retention SOP.

7.14 Intelligence Interviews

7.14.1 Interviews may be conducted with prisoners to gain Criminal Intelligence. In all cases, due to the sensitive nature of the interviews, they should not be conducted in an area where they may be recorded, or an area where they may be overheard by a third party. An entry of intelligence interviews should be recorded in the Duty Officer's notes. All interviews should be corroborated, and where practicable the interviewing officer should be unrelated to the original investigation. Intelligence interviews should only be carried out following the completion of the initial investigation. It is not permissible to delay the release of a charged person in order to conduct an intelligence approach.

8. Identification of Suspects

8.1 Police Officers should refer to Identification Procedures SOP for further guidance.

9. Interview Advisor

9.1 Role of Interview Advisor

9.1.1 The role of the Interview Advisor (IA) should be seen as an essential role within any major incident/investigation management team.

9.1.2 The SIO should consider appointing an IA at the earliest opportunity, to ensure the interview process continuity can be established and all available information and evidence be obtained through the careful planning and implementation of the interview strategy.

- 9.1.3 The SIO has the responsibility to progress an enquiry in a professional and efficient manner. To this end, the development of an interview strategy, from which interviews are prepared and conducted, is their responsibility and will be recorded within the Policy File.

9.2 Interview Strategy

- 9.2.1 It is essential that consideration be given to the deployment of an IA from the outset of a Major Incident/Investigation. This will ensure that the IA becomes an integral part of the decision making process, working closely with the SIO to develop a comprehensive interview strategy. By managing and implementing interview plans in consultation with the SIO, the IA will obtain an overview of the interview process throughout the investigation and be ideally placed to respond to any change of policy as directed by the SIO.

9.3 Deployment

- 9.3.1 Early deployment of an IA will ensure that a comprehensive debrief of the first officers at the scene of the investigation can be obtained.
- 9.3.2 Whilst it is appreciated that some officers may feel uncomfortable when subjected to a witness interview, as opposed to self-submission, it has been shown in an operational setting that this method increases the accuracy and content of statements, and brings a more objective view to the information gathering process.
- 9.3.3 IAs are a divisional support resource and it is the responsibility of each division to compile and maintain an updated list of suitably trained officers. Mutual aid arrangements should prevail between neighbouring divisions to ensure a consistent availability of IAs, although initial deployment of an IA should lie with the host division.

9.4 Interview Categories

- 9.4.1 The main areas covered by an interview strategy will be the interview of:
- Victims
 - Significant Witnesses (Including Police Officers)
 - Suspects
- 9.4.2 The initial interview of the victims of crime represent in some cases the best opportunity for the police to obtain information in relation to the incident under investigation. The IA as directed by SIO can assist with the preparation of interview plans to meet the needs of the enquiry, which will ensure that all areas appropriate to the investigation are explored and all available information is captured.
- 9.4.3 **It is understood, however, that to wait for an IA in some critical situations may be impractical.**

9.4.4 There are many instances during an investigation where persons fall into the 'significant witness' category and require a particularly detailed interview.

9.4.5 By implementing a dedicated interview plan delivered by appropriately trained officers, this offers the opportunity for a structured interview resulting in a comprehensive statement, the contents of which will assist the investigation and often negate the need for multiple interviews of such witnesses.

9.5 Generic Interview Plans

9.5.1 Dependent upon the type of investigation, consideration should be given to the early creation of generic interview plans. This has the advantages of obtaining specific information covering a broad spectrum and will provide consistency to the information gathering process.

9.5.2 This approach can be further expanded to target specific groups of potential witnesses, for example; taxi drivers, prostitutes and larger groups who will be subjected to interviews during protracted investigations.

9.6 Interview Teams

9.6.1 The selection of suitable officers to conduct interviews during any investigation is a matter that requires careful consideration. When considering the composition of interview teams, the IA can offer the SIO support in the decision making process by helping to assess the witness and where possible, match the interview team to the requirements of that witness.

9.6.2 In cases involving victims of sexual crimes, only Sexual Offences Liaison Officers (SOLOs) can conduct victim interviews. SOLOs can further provide guidance to the interview teams for additional witnesses to ensure the best possible opportunity of obtaining all pertinent information.

9.6.3 The creation and management of any suspect interview is the culmination of extensive work within an investigation and therefore any interview plan requires the inclusion of all relevant available information to ensure that the suspect is given every opportunity to respond to the evidence in the possession of the police.

9.6.4 If this is achieved, it will remove the opportunity to allege at subsequent court proceedings that the suspect was not given the opportunity to comment in relation to certain aspects of the case that either tends to prove or disprove their involvement.

9.7 Suspect Interview Strategy

9.7.1 The suspect interview plan should be created, where possible, in conjunction with the interview team in order that the officers are fully conversant with the objectives of the process.

- 9.7.2 Where time permits, any suspect interview plan should contain a comprehensive breakdown of the interview process from detention through to arrest procedures.

9.8 Remote Monitoring

- 9.8.1 It is advisable that any digitally recorded interview which is to be undertaken during a major incident/investigation should be conducted within a police station with remote monitoring facilities. A full list of Remote Monitoring interview sites can be found at Appendix 'A'.
- 9.8.2 Where multiple suspect interviews are required, the appointment of an IA co-ordinator is recommended to ensure each interview team advisor is fully informed of the entire process. The benefits of interview monitoring include the ability for the management team to adapt the interview plan, in real time, and where appropriate, conduct additional enquiries resulting from information supplied during the interview; for example, a suspect providing an alibi or specialist knowledge that can be either confirmed or refuted during the period of detention.
- 9.8.3 The SIO is responsible for the conduct of the interview and any actions taken by both the IA and the interviewing officers. Remote monitoring affords the opportunity to maintain control of the process, and should be conducted in a sterile environment with only essential staff present.
- 9.8.4 A full list of Force Remote Monitoring Locations can be found at Appendix 'A'

9.9 Interview Planning

- 9.9.1 In association with the SIO, the IA will examine what is required from the interview and create an appropriate plan. This plan should consider the location of the interview and if relevant the need to tape/digitally record the witness statements for future use in any proceedings. The early identification of a pool of officers who will form the 'suspect' interview team will allow a more focused approach to the process, ensuring they are fully conversant with the objectives of the interview plan.
- 9.9.2 The Criminal Justice (Scotland) Act 2016 sets out certain requirements and responsibilities around the authorisation of a section 1 arrest under the Act which have to be justified before any person taken into custody will be legally held by the police. It is important that the arresting officer can fully justify their actions and the need to deprive an individual of their liberty before any arrest will be authorised by the receiving Custody Sergeant.
- 9.9.3 It is considered best practice that in pre - planned operations, particularly those investigations where there are likely to be multiple persons arrested and subsequent authorisation that early communication is commenced by the Interview Advisor or investigating Officer to assist with the decision making process of Custody Division staff. All actions in this regard should be fully documented in either the interview strategy of crime report / file enquiry update as appropriate.

9.10 Specialist Advisors

9.10.1 The role of the IA is to highlight to the SIO the need for specialist assistance during the interview process to ensure that both operational and legislative requirements are met.

9.10.2 The following, whilst not exhaustive, identifies certain specialisms that require to be considered when planning any interview:

- **Appropriate Adult Interviews:** An assessment must be made prior to the commencement of any interview where it is believed the person to be questioned, either as a witness or suspect, will require the assistance of an appropriate adult to assist with the explanation of the process. This information can be gleaned from various sources, including medical, educational and social work. To avoid future challenges as to the legality of an interview, an appropriate adult should be utilised if it is felt that the witness or suspect may require one, irrespective if there is additional evidence to support the requirement. However, it should be borne in mind that any decision on the requirement for an appropriate adult should be fundamentally based on the manner in which the person to be interviewed presents at the material time, although historical support requirements can still be used to inform any decision.
- Where the person being interviewed is a suspect, they **must** receive solicitor access in accordance with section 33 Criminal Justice (Scotland) Act 2016. For full guidance please see Police Scotland Solicitor Access Guidance Document.
- **Interpreting Service Interviews:** Where a suspect or witness requires the assistance of an interpreter, whether for a foreign national or a witness who has impaired hearing or speech, they should be afforded the appropriate services via the interpreting services or signing services (Interpreting and Translating Services SOP). Any enquiry officer encountering witnesses where the services of an interpreter are required should, in the first instance, liaise with the SIO/IA in order that any deployment can be recorded; as such use requires to be included within any reports submitted to the appropriate prosecutors.
- **Counter Terrorism Interviews:** In the event of a terrorist detention occurring within Scotland, the SIO will liaise with the Counter Terrorism SIO and the appointed IA and will agree an appropriate interview strategy.

10. Community Advisors

10.1 Community Advisors and the Independent Advisory Group (IAG) are a group of volunteers from the community and also police staff members and police officers, who have agreed to provide advice on all areas of diversity, these being:

- Age;
- Disability;

- Gender Reassignment;
- Marriage / Civil Partnerships;
- Pregnancy / Maternity;
- Race;
- Religion / Belief;
- Sex;
- Sexual Orientation.

10.2 The role of the Community Advisor is to provide the SIO with advice and guidance in respect of the diversity issues within their own area of expertise. Examples of when they can be utilised are:

- To advise on potential impact of an incident on specific communities;
- To advise on issues specifically relevant to the individual/community affected;
- To advise on any potential impact, adverse or otherwise, from a proposed course of action by the police.

10.3 Community Advisors should only be utilised in an advisory capacity, their services should not be sought under any circumstances as mediators or advocates.

10.4 Restrictions may apply where a member of the community acts as a Community Advisor; these restrictions need not apply where a police officer is utilised as a Community Advisor. Further information and guidance can be found in the Community Advisors SOP and / or through contact with the Equality and Diversity Unit.

11. Impact Assessment

11.1 Any major incident / investigation or crime which may have a significant impact upon the community must be the subject of a Community Impact Assessment. Further guidance and information can be found within the Community Impact Assessment SOP.

11.2 No single method can accurately predict the tensions which may arise within a community during an investigation and any assessment must be categorised in broad terms as HIGH, MEDIUM and LOW risk.

11.3 In terms of a major incident/investigation, an initial assessment must be compiled at the earliest opportunity once the incident has been contained and the affected area identified, normally within 4 hours of the event and in any case, within the first 24 hours.

- 11.4 Thereafter, additional assessments shall be conducted at intervals, not exceeding 7 days, as agreed between the SIO and the Senior Officer having responsibility for operational policing and must continue until the CIA is archived.

12. Forensic Strategy

- 12.1 The decision to implement a forensic strategy will be the SIO's in conjunction with COPFS and Forensic Services.
- 12.2 Any Forensic Strategy is likely to provide a significant amount of additional evidence, which will require to be presented in a manner which is acceptable to COPFS.

13. Family Liaison

- 13.1 The SIO is responsible for the formulation and implementation of a family liaison strategy, details of which should be documented within the Policy File.
- 13.2 Guidance on the selection and deployment of a Family Liaison Officer (FLO) can be found in the Family Liaison SOP.

14. Mass Death Protocol

- 14.1 In the event of a mass death incident, a distinction should be drawn between the role of the SIO and the Senior Identification Manager (SIM), both of whom are likely to be senior detective officers.
- 14.2 The former will assume responsibility for all aspects of the investigation and will liaise with other investigative bodies into the cause of the disaster/incident with a view to identifying the cause or who is responsible or liable.
- 14.3 Disaster Victim Identification (DVI) is the internationally accepted term to describe the processes and procedures for recovering and identifying deceased people and human remains in multiple fatality incidents. The DVI process and the procedures are subject to international agreement through Interpol.
- 14.4 The SIM is responsible for ensuring the Recovery, Identification, Reconciliation and Repatriation of the deceased in a dignified and respectful manner. The SIM is responsible for:
- Victim Recovery
 - Post-mortem identification procedures
 - Casualty bureau
 - Family Liaison

- Ante-mortem harvest
- Ensuring the integrity of identification
- Reconciliation (forensic matching)
- Recovery, collection and storage of forensic evidence
- Recovery and storage of personal property belonging to the deceased
- The welfare of all staff involved in the recovery and identification of the deceased, including family liaison officers and casualty bureau staff
- The management of information passed to the media surrounding recovery and identification of the deceased

14.5 The SIM is also responsible for the deployment of DVI staff, commensurate to the scale of the incident.

14.6 The purpose of an Identification Commission is to assist the Procurator Fiscal to determine the correct identification of each and every person involved in a mass fatality incident. The Procurator Fiscal will establish an Identification Commission and decide when and where it will sit. They will consult with the SIM and may ask them to assist in setting up the commission. The Procurator Fiscal will chair the commission meetings. The membership of the Identification Commission will be determined by the SIM in consultation with the Procurator Fiscal in line with the nature and scale of the incident. Members of the commission **must** have a role in determining the identification of the deceased. Evidence will be collated and presented at the Identification Commission by the SIM, which will be evaluated by the Procurator Fiscal who will consider the comparisons made between post-mortem and ante-mortem data presented. If the identification is considered to have been established, then the Procurator Fiscal will certify the identification.

14.7 Further information is contained within the College of Policing Guidance on Disaster Victim Identification.

15. Major Crime Investigation

15.1 The Specialist Crime Division (SCD) creates a national structure dealing with the most serious forms of crime led by the Deputy Chief Constable (Crime and Operational Support), supported by two Assistant Chief Constables with responsibility for Major Crime, Local Crime and Public Protection; Organised Crime and Counter Terrorism, Intelligence and Borders Policing Command respectively.

15.2 The SCD has been designed to deliver more equal access to specialist support including the Major Investigation Team (MIT) which is a single structure for Scotland with syndicates in North, East and West Command areas, each including HOLMES and intelligence support.

15.3 The SCD will have primacy for the investigation of all homicides in Scotland through the MIT structure and under the direction of the Detective Chief Superintendent – Major Crime.

15.4 Categorisation

15.4.1 The purpose of categorisation is to determine the initial indicator of human resource allocation to a major criminal enquiry and to provide both Divisional Management and the Specialist Crime Division with a guide to their respective contribution to staffing levels.

15.4.2 Further reference is contained within the Protocol between Police Scotland and COPFS Guidance for the Investigation and Prosecution of Serious Crime.

15.4.3 The ACC (Major Crime and Public Protection) and the Detective Chief Superintendent (Major Crime) will decide the rank of the SIO dependent on the circumstances and the profile of the enquiry.

15.4.4 The SIO will normally be at least Detective Inspector rank, but may be a Detective Chief Inspector or Detective Superintendent.

15.4.5 The following outlines the rationale for the choice of categorisation of the enquiry:

- **Category A+**

A homicide or other major investigation where public concern and the associated response to media intervention is such that normal staffing levels are not adequate to keep pace with the investigation.

- **Category A**

A homicide or other major investigation which is of grave public concern or where vulnerable members of the public are at risk, where the identity of the offender(s) is not apparent, or the investigation and the securing of evidence requires significant resource allocation.

- **Category B**

A homicide or other major investigation where the identity of the offender(s) is not apparent, the continued risk to the public is low and the investigation or securing of evidence can be achieved within normal force resourcing arrangements.

- **Category C**

A homicide or other major investigation where the identity of the offender(s) is apparent from the outset and the investigation or securing of evidence can be achieved easily.

15.4.6 The Detective Chief Superintendent Major Crime will decide on the final grading within the above categories.

15.4.7 The agreed categorisation will thereafter be entered into the SIO's Policy File, including the decision making rationale.

- 15.4.8 In addition to those where the victim is vulnerable, homicides in the public domain or where the crime is racially and/or religiously motivated, may attract the Category 'A' classification.
- 15.4.9 Resourcing shall be decided on a case by case basis according to need (once the scale of actions becomes clear and the numbers of specialist and support staff are known).
- 15.4.10 Further consultation shall take place for all Category 'A' investigations and the appropriate resource allocation established.
- 15.4.11 Resourcing will be assessed throughout the investigation.
- 15.4.12 The reporting of more complexed investigations will involve close liaison with COPFS given that the majority of cases will be heard within the High Court. Such cases may involve the submission of evidence from a variety of sources including Forensic Examination; Ballistics; Communications Data; and evidence in relation to controlled drugs, together with the use of 'Expert Witness' evidence.
- 15.4.13 CCTV is often referred to as a passive evidence generator, and is likely to provide significant evidence gathering opportunities in any major investigation. The SIO will instruct specifically trained CCTV officers to conduct a trawl for all potential CCTV opportunities as a priority action, given the potential retention of CCTV diminishes through time.
- 15.4.14 Further guidance can be found in Major Incident Room Standardised Administrative Procedures (MIRSAP) and SMART (MIR) Manual.

16. Intelligence Cells

- 16.1 The use of an Intelligence Cell during homicide and other major crime investigations is now well established. The Intelligence Cell will perform its roles and responsibilities in a structured manner, conducted by trained staff, who will be focused on producing quality Intelligence products, thus assisting the SIO to direct and control the course of the enquiry or incident.
- 16.2 The primary function of the Intelligence Cell is to collect Intelligence material gathered by all available policing methods, and to analyse it to assist in the successful conclusion of an investigation or incident. The Intelligence Cell's key responsibilities include:
- Formulation of an Identified Intelligence Strategy (IIS);
 - Exploitation of all available sources of Intelligence;
 - Specialist Intelligence research of computer systems;
 - Intelligence briefings for the SIO;
 - Preparation of Intelligence profiles/packages to the recognised grading;

- Telecommunications research;
 - Arranging the assistance of intelligence related specialisms located elsewhere from the Intelligence Cell such as the Internet Investigation Unit, the Communications Investigation Unit, the International Assistance Unit, and the Analysis and Performance Unit;
 - Local and national circulations;
 - Maintaining the integrity of the Firewall principle;
 - Compliance with the GPMS/GCS principles and protocols regarding document and office security.
- 16.3 The SIO, in liaison with the Intelligence Cell Overseer/Manager, has responsibility for ensuring that an Intelligence Cell with the appropriate resources is established at the outset.
- 16.4 The SIO, in consultation with their deputy SIO, the Intelligence Cell management team, MIR Office Manager, Senior Analyst and any other person deemed necessary to this process, will define the Identified Intelligence Strategy (IIS) to meet the aims and objectives of that enquiry, and provide clarity as to the specific terms of reference of the Intelligence Cell. This strategy shall be defined within the SIO Policy File and subject to regular review and modification where necessary.
- 16.5 Depending on the scale and complexity of the enquiry the SIO should consult the Intelligence Cell management team and agree timescales for the delivery of Intelligence products.
- 16.6 Further guidance can be found in the ACPO Murder Investigation Manual (MIM) and Major Incident Room Standardised Administrative Procedures (MIRSAP) 2005.

17. Homes Office Large Major Enquiry System (HOLMES)

- 17.1 Where possible, homicide investigation and depending on the complexity, irrespective of categorisation, is to be HOLMES managed to support the SIO, delivering consistency of deployment and organisational memory.
- 17.2 Further guidance can be found in the:
Major Incident Room Standardised Administrative Procedures (MIRSAP) Manual, ACPO Murder Investigation Manual and the Protocol between Police Scotland and COPFS Guidance for the Investigation and Prosecution of Serious Crime.

18. Review Process

- 18.1 Police Scotland acknowledges the benefits of reviewing, not only unresolved protracted enquiries but other major investigations, including those that are

motivated in whole or in part by bias against race, colour, religion, gender, disability, sexual orientation or ethnicity.

- 18.2 Any review of a major crime investigation must be seen as an activity planned to assist and support the SIO in the identification of offenders.
- 18.3 It is, however, equally important to conduct such reviews to identify good and weak practices in order to assist future investigations.
- 18.4 Reviews shall be instructed at the instance of the Assistant Chief Constable (Crime) or the relevant DCS, who now assumes the role of Commissioning Officer in pursuance of the ACPOS National Review Strategy.
- 18.5 Reviews in relation to undetected murders or other homicides where criminality is considered possible or cannot be excluded will be carried out by, or supported by Homicide Governance and Review (HGR).

19. Unresolved Case Review

- 19.1 Homicide Governance and Review (HGR) was formed at the start of Police Scotland to manage the performance of homicide investigations carried out by Police Scotland, targeting best practice, consistency and emphasising Organisational Learning and Development (OLD). HGR staff enter details of new homicides onto the Scottish Homicide Database to ensure both a complete resource for learning and also a single source for all statistical requests and information.
- 19.2 The Scottish Homicide Database contains a complete data set for all murders committed in Scotland since 1960, in addition to the details of the murder, where available paperwork and documentation stored on the database can be provided.
- 19.3 HGR have responsibility for the assessment and review of unresolved murders including the 28 day review process for current undetected murders. The Database is managed by HGR staff and information requests can be forwarded to:

Information has been removed due to its content being exempt in terms of the Freedom of Information (Scotland) Act 2002, Section 30 Prejudice to Effective Conduct of Public Affairs.

- 19.4 Unresolved homicides are deaths where there is clear evidence of homicide (including corporate homicide) or where there is suspicion that the death has resulted from the homicidal act or omission of another in respect of which:
 - (a) No suspect has been identified,
 - (b) A suspect has been identified but not charged,
 - (c) A suspect has been identified and charged but not placed on petition,

- (d) A suspect has appeared on petition but no indictment served due to there being considered an insufficiency of evidence at that time,
- (e) A suspect has been identified and a trial concluded which has resulted in an acquittal,
- (f) A suspect has been convicted but acquitted on appeal and no fresh prosecution has been authorised by the Appeal Court.

19.5 The foregoing investigations meet the criteria of National Review Strategy.

19.6 Where a case has been identified as **Unresolved** it is of the greatest importance that the original case papers including statements, actions, messages and productions are recovered and securely retained.

19.7 Clearly some **Unresolved** cases may date from a significant period in the past and it may not be possible to recover the productions. It is, however, critical that a policy is in place to ensure those productions which are still in existence for historical cases and those which relate to more recent investigations are retained and not subject to standard production release or destruction policies.

19.8 For further guidance refer to the Storage of Records SOP, Record Retention SOP and Productions SOP.

19.9 A key element of the management of Unresolved Crimes is periodic assessment carried out by, or under the direction of HGR and the completed document stored on the Scottish Homicide Database along with any other relevant information.

19.10 This report provides the opportunity for the reviewing officer to apply professional judgement as to whether there exist any key investigative elements, which provide opportunities for development in terms of forensic progress, which may advance the investigation.

19.11 Once cases have been the subject of such assessment and this has led to the possibility of further evidence through evaluation, the case should be presented to the Homicide Governance Board (HGB) chaired jointly by Police Scotland and COPFS where appropriate direction will be given if an accord for re-investigation is reached. If agreement for full re-investigation is not obtained at the meeting there may be direction given as to steps to be taken prior to such enquiry being undertaken.

19.12 It should be noted that the re-investigation of cases which have implications in terms of the Double Jeopardy (Scotland) Act 2011 will only be carried out under the direction of COPFS via the HGB and no new enquiries should be undertaken without their consultation and instruction.

19.13 Domestic Homicide Review – Domestic Homicide Prior Police Contact Procedural Review

19.13.1 Where a homicide is defined as a Domestic Homicide, notification will be made within three working days to the Assistant Chief Constable, Local Policing,

within the relevant policing area who may commission a Prior Police Contact Reviewing Officer, of minimum Superintendent rank, who will thereafter be appointed to review all previous police contact with the deceased and perpetrator. The Review should not impede the criminal investigation and the Reviewing Officer should consult with the SIO from the outset. The Review will be conducted in accordance with guidance contained within the Domestic Homicide Prior Police Contact Procedural Review.

20. Application for Warrants

- 20.1 Guidance in relation to the execution and management of all forms of warrants can be obtained in the Warrants SOP.

21. Locate / Trace Packages

- 21.1 If the enquiry officer, following review by a supervisory officer of at least the rank of sergeant, is satisfied that all available opportunities to trace the suspect/witness have been exhausted, they must complete a 'Request for PNC Locate and Trace Entry Form' and present it to a supervisor for endorsement.
- 21.2 In instances of serious crime where there is an urgent requirement to have a locate trace placed on the PNC then, at the discretion of the supervisor, this can be approved without all the initial lines of enquiry having been completed.
- 21.3 The supervisor will be responsible for ensuring that the enquiries are thereafter carried out without undue delay. The enquiry officer will then update the crime report/file with all the following relevant information, and should be headed 'LOCATE TRACE ENQUIRY':
- The first line should highlight whether the person sought is a witness or suspect and what course of action is to be taken; interview at locus, confirm details, arrest under terms of Section 1 Criminal Justice (S) Act 2016 etc. This should be typed in upper case, to ensure clear instruction;
 - If person is to be arrested under Section 1 then the exact wording of the caution and the reason for arrest should be provided;
 - A summary of the circumstances of events should be provided outlining the evidence of each witness. This should highlight the specific reason and evidence available for requesting information from the person traced;
 - A detailed list of questions to be asked of or information required from the suspect or witness should be included;
 - Confirmation that any relevant statements have been dictated to ICRS and are held within the reporting officer's folder must be entered;
 - The physical location of the locate trace package must be included on the crime report/file.
- 21.4 Information input onto the crime report/file must be done professionally and to the highest standard ensuring it is capable of withstanding scrutiny from any outside body or authority.

- 21.5 Always bear in mind that a crime report/file can be required to be produced in court as documentary evidence.
- 21.6 Always ask yourself if the information you have provided would be relevant and sufficient for you to carry out an interview if you were the officer stopping the suspect on a routine check.
- 21.7 The first point of contact when an officer locates a wanted person will inevitably be the relevant area control room, which will require access to the crime report/file and provide the interviewing officer with the relevant details of enquiry required. Where a locate trace package exists, instances may arise when it is not possible to access to electronically held information. Therefore a 'hard-copy' locate-trace package must be stored locally and be accessible; details of the location must be included on the crime report/file.
- 21.8 In such circumstances, at the Duty Officer's discretion, the contents of the locate trace package will be faxed/emailed to the intended recipient. In line with GPMS the Duty Officer must first check that the recipient is on hand to receive the fax.
- 21.9 The cover sheet should be sent and confirmation that the intended recipient has received it established, prior to forwarding the following pages. This will be reflected in an update on the crime report. (Transmission of the locate trace package will generally be carried out via email).
- 21.10 On completion of the necessary enquiries, the interviewing officer is responsible for:
- The cancellation of the locate trace and updating the crime report;
 - Updating the crime report with the result of the enquiry and then finalising it;
 - Where a physical package is also held, updating the package monitoring sheet and on completion of the enquiry - returning the package to the initial enquiry officer;
 - Forwarding an email to the enquiry officer advising that the locate trace has been actioned;
 - Where the interviewing officer is from another Command area, notification should be sent to the enquiry officer confirming that the above actions have been carried out. It shall be the responsibility of the enquiry officer to ensure that the above actions are complied with and all updates/cancellations have been undertaken.

22. Digital Media Investigation

- 22.1 Reference should be made to the following documents for further guidance:
- Digitally Stored Evidence SOP
 - Indecent Images of Children on Digital Media SOP
 - Internet Research and Investigation SOP

23. Mobile Phone Crime

23.1 Where a mobile telephone is believed to have been used in the commission of a crime or has been stolen, officers should be aware, in the first instance, of the guidance and advice contained in the guidance documents:

- Cybercrime First Responders Guide
- Seizure And Forensic Examination Of Mobile Telephones
- Mobile Phone Crime Toolkit

Advice and guidance is also available from their local Cybercrime Unit to assist in any investigation.

23.2 Mobile Phone – Report of Theft

23.2.1 Where the report of a theft of a mobile telephone has been received, the officer obtaining the report should obtain from the complainer, at the earliest opportunity, the International Mobile Equipment Identifier (IMEI) for the phone. The details of the stolen mobile phone and crime reference number should be entered onto the National Mobile Property Register (NMPR) as soon as possible. This will aid investigators should the phone be recovered.

23.2.2 Where a mobile telephone has been recovered as either found property or is suspected as stolen, the IMEI number should be identified and recovered. In the first instance this should be read from the phone physically, either from the casing or from the SIM card container, or from the sticker under the battery. If it is not in any of these locations, then the SIM should be removed and then started up and interrogated using ***#06#**. The Office of Surveillance Commissioners has confirmed that interrogating the handset of the phone using ***#06#** or looking behind the battery to check for the IMEI, would be justified to establish the identity of the mobile phone.

23.2.3 Officers and Members of Police Staff may wish to isolate the phone from the Global System for Mobile (GSM) communication system and should be aware that if a smartphone is stolen then it may be that the owner has set it to wipe itself automatically. If the phone is not on when this request is sent then it will sit on GSM until the phone is turned on, at which point the phone will be wiped. This of particular significance, if this mobile smartphone and/or its contents are considered a potential evidential source in any investigation.

23.2.4 Officers should remember that the NMPR is an investigatory tool and even if there are no hits on the system for the IMEI, this does not mean that the mobile phone is not stolen. Officers should be aware of the prevailing circumstances which may still suggest that the mobile phone is stolen, as it may be some time before the handset is recorded on NMPR, if at all. Should officers obtain NMPR activation, officers should make immediate contact with the registering Police Service or Force, or Communication Service Provider to confirm the validity of the information held on the register.

23.2.5 Where there is an indication that the mobile phone may have been used in a serious crime, the phone should be retained and secured for Forensic analysis. Forensic requests should be submitted to the appropriate Cybercrime Forensic Gateway for all such items. Subscriber checks and itemised billing should be processed through the appropriate local Telecommunications Unit.

23.2.6 Mobile phones that are switched on at the point of seizure **must** be switched off, a note of what was displayed on the screen should be recorded in the officers' notebook. The phone should thereafter be packaged and lodged as per guidance in the Productions SOP.

23.3 Mobile Phone Examinations Out-with Cybercrime Forensic Examinations

23.3.1 Recent case law and operational scenarios have highlighted opportunities that may exist to expedite urgent enquiries with the manual examination of a mobile phone out with normal submission to their local Cybercrime Forensic Gateway for Forensic examination.

On all occasions a supervisor of at least the rank of Inspector should be contacted and asked for permission to examine the phone.

23.3.2 For the sake of clarity, a manual examination by a police officer involves viewing the live data e.g. text messages, images etc held on a mobile telephone versus a forensic examination that could potentially recover all present and deleted data.

23.3.3 Manual examination of a mobile phone or other mobile device can be considered in the following circumstances:

- Suspect arrested under Section 1 of the Criminal Justice (Scotland) Act 2016.
- Suspect detained under the terms of Section 23, Misuse of Drugs Act 1971 **and only when drug dealing is suspected.**
- Suspect phoned seized under common law and urgency of circumstances dictates that the phone is examined e.g. threat to life.
- Victim hands over phone to officers to examine – often for low-level offences and enables officers to note content of text messages and/or to enable screenshots to be emailed to Police thereby allowing victim to retain phone.

23.4 Do's and Don'ts - What can and cannot be done whilst performing a manual examination

While officers may have a legislative right to seize and examine a mobile phone, it does not automatically give you the right to access the owner's data. Certain circumstances may define that data obtained from the phone as intercept material – this will depend on where and how this data is stored e.g. Is the data on the phone or is it accessed via the internet. The Data Protection Act 2018, Regulation of Investigatory Powers (Scotland) Act 2000 or the

Investigatory Powers Act (2016) may be relevant. Officers should only access data legally with justification, proportionality and relevant to the crime under investigation.

Prior to any manual examination of a mobile device the SIM card should be removed and the device changed to 'Airplane Mode'. This will isolate the device from the network and prevent accidental sending/receipt of data.

What Can Be Done?

- Review of all data present on the device

What Cannot be Done?

This is not a comprehensive list and is for guidance only – if there is any doubt about whether or not officers should examine a phone or other mobile device they should be seeking further advice from a supervisor who should have authorised the examination in the first place.

- Do not listen to voicemail.
- Do not access the Internet or any app that may connect to the Internet e.g. Facebook. (Removal of the SIM and placing the device in 'Airplane Mode' will prevent the device from obtaining a signal to access the internet).

In any instance where any manual investigation of any mobile device is performed officers must ensure that they record in their official notebook/PDA the step by step keystrokes and/or other activity used to access the device and any information contained thereon. It is also good practice to photograph/video record anything relevant seen during any manual review of a mobile device in case this item cannot be seen again/replicated during any subsequent manual review/forensic examination.

23.5 Please be aware that there are risks associated with a manual examination of a mobile phone.

- Evidence may be accidentally deleted and permanently lost.
- Breach of Data Communications Act, Regulation of Investigatory Powers (Scotland) Act 2000 or the Investigatory Powers Act 2016.
- Relevant evidence may not be identified and opportunities could be lost.
- Deleted data will not be seen or recovered.

24. Productions

24.1 A production is any animal, article, document, liquid which is alleged to have some connection with a crime or offence under review and will be seized during the investigation of a crime or offence.

24.2 All productions seized should be packaged in line with the Productions SOP.

- 24.3 For productions requiring forensic examination officers should refer to the Forensic Science Gateway SOP.

25. Records Management

- 25.1 All records relating to crimes either **currently under investigation**, classified as **resolved** or **unresolved** should be maintained and managed in accordance with the Police Scotland Record Retention SOP.

26. Cross Border Powers

- 26.1 There are three distinct jurisdictions within the United Kingdom, each with its own legal system -
- England and Wales, where most powers available to the police in terms of investigations are contained within the Police and Criminal Evidence Act 1984 (PACE);
 - Northern Ireland, where most powers available to the police in terms of investigations are contained within the Police and Criminal Evidence (Northern Ireland) Order 1989; and
 - Scotland, where most powers available to the police in terms of investigations are contained within the Criminal Justice (Scotland) Act 2016.
- 26.2 Of the three jurisdictions only Scotland does not derive any arrest powers from Common Law, which has now been replaced by Section 1 Criminal Justice (Scotland) Act 2016.
- 26.3 It has been recognised that the close links between the three jurisdictions provide challenges for the effective and efficient investigation of crime across borders. As a result, the UK Parliament included Cross Border Powers within Sections 136 to 140 of the Criminal Justice and Public Order Act 1994 with the following provisions -
- Section 136 - Execution of Warrants;
 - Section 137 - Cross Border Powers of Arrest etc;
 - Section 137A – Additional Cross Border Powers of Arrest etc: Urgent Cases
 - Section 138 - Powers of Arrest etc.: supplementary provisions;
 - Section 139 - Search Powers Available on Arrests under Sections 136 and 137, and;
 - Section 140 - Reciprocal Powers of Arrest (N.B. not reciprocal powers of detention).

- 26.4 Under the Criminal Justice and Public Order Act 1994, officers from Police Scotland, when arresting a person(s) under Cross Border Powers, shall have the same powers and duties as if the arrest had been made in Scotland. Similarly the person arrested shall have the same rights as they would have had in Scotland. It should be noted that if a NOA person wishes intimation sent to a solicitor of the fact of their arrest that this intimation cannot be legally delayed.
- 26.5 Where officers of an English or Welsh Force or officers from the Police Service of Northern Ireland (PSNI) trace a person in their Force area wanted as a suspect in connection with a Police Scotland enquiry, there is no statutory power of arrest if there is not a valid warrant in force unless the provisions of S137A (serious and urgent) are invoked. In this case, the officer(s) can invite the person to attend at a local Police station to await the arrival of officers from Police Scotland. The officer(s), however, have no power to require their attendance or the power to arrest that person.
- 26.6 Where there is insufficient evidence to arrest, the Investigating Officer should consider the use of the locate/information function on PNC. This function allows a marker to be placed against the person in question requesting that if traced, full details and current home address are obtained and forwarded to the requesting/enquiry officer. It should be noted however that the person, if not under arrest, is under no obligation to provide these details.
- 26.7 Where there are cases that are both serious (in terms of the act a “specified offence”) and urgent this section allows for an officer of Police Scotland to arrest suspects in Scotland for offences committed in England, Wales or Northern Ireland (and vice-versa). Urgency is defined in the legislation under the terms of Section 137A but is likely to be scrutinised closely by the Courts. It is of note that to use powers under this section there must be both seriousness (ie the offence must fit the criteria of specified offence) **and** urgency. One or other in isolation would not be sufficient to justify the use of these powers, which must be considered very carefully.
- 26.8 The powers in Section 137A mean that a Constable can exercise a power of arrest, within three hours that decision must be ratified by an officer of not less than Inspector rank in the requesting and arresting forces. An Inspector can then authorise the holding in custody of the arrested person for a total period from the time of arrest not exceeding 24 hours. In certain circumstances an officer of not less than Inspector rank can further extend by another 12 hours to a maximum of 36 hours from the time of arrest. For incoming requests to Police Scotland the Inspector authorising requests shall be the Force Custody Review Inspector. All outgoing requests from Scotland to other jurisdictions are the responsibility of an SIO of not less than Inspector rank. Detailed records must be kept of any use of such powers as they are likely to be subject to intense scrutiny in Court. (See Appendix N)
- 26.9 Police Scotland will arrest (for the serious and urgent powers only) under the terms of S137 of the Criminal Justice and Public Order Act 1994, as amended, which is the power to arrest and hold only. Section 1 Criminal Justice (Scotland) Act 2016 arrest does not apply, nor do the specific tests under

Section 7 or Section 14 of the 2016 Act. On arrival at one of our stations officers from England, Wales or Northern Ireland would arrest under the terms of PACE and travel back to their home jurisdiction.

- 26.10 Arrest must end not more than 12 hours after arrival at the police station to which the NOA is taken in England, Wales, Northern Ireland or Scotland. This can be extended in certain circumstances by a further 12 hours with the authorisation of a Custody Review Officer.
- 26.11 It is vital that consideration is given to the arrangements for affording solicitor access. The rights of a suspect, in terms of access and notification to a solicitor, remain exactly the same as if they had been arrested in Scotland. The procedure to be followed in affording rights is contained in the Police Interview - Rights of Suspect (PIRoS) Form 051-032. It should be noted that if a NOA person wishes intimation to a solicitor of the fact of their arrest that this intimation cannot be legally delayed. Further guidance is contained within the Police Service of Scotland Solicitor Access Guidance Document.
- 26.12 When an Investigating Officer intends to use Cross Border Powers, they must complete Form 045-019 (Cross Border Powers – Notification of Planned Operation) and inform the relevant Commander of the area of the planned operation. Upon completion of the operation, the Investigating Officer must complete Form 045-020 (Cross Border Powers – Notification of Result of Planned Operation) notifying the Commander of the result of the operation. In serious and urgent cases where Section 137A powers are used only the notification of result form need be submitted.
- 26.13 When an Investigating Officer intends to use Cross Border Powers and requires the use of a Police station in England, Wales or Northern Ireland, they should familiarise themselves with, and provide the relevant Custody Officer with Form 045-028 in order to assist both officers and custody staff in their understanding of the processes that will be used. It would be advisable for the Investigating Officer to discuss these differences with the Custody Officer to ensure all parties are conversant with the processes to be used.
- 26.14 The Police Scotland Custody Suite (PSCS) that officers intend to use for recording the arrest on NCS should be updated with approximate time, date, locus of arrest and what British Force the arrest will take place in. This is to allow the Custody Officer on duty at the time of arrest to have all available information. Any details of the NOA should be left to allow routine custody checks. The PSCS will only create the NCS record when the NOA is in custody at the receiving suite in the relevant British Force. The PSCS should be asked to research the NOA for any information that will be relevant to their care and welfare whilst being held out with Police Scotland.
- 26.15 The Custody Suite that officers intend to take the NOA to should also be informed of the approximate time, date and locus of arrest.

26.16 Searching

26.16.1 The same powers of searching persons under arrest that are available to Police Scotland officers in their home jurisdiction are also available to them when exercising these powers in other areas of the UK, with one important exception - Police Scotland officers cannot use force to obtain a DNA sample from a OA or a NOA outside Scotland. If the circumstances of the case and available information/intelligence indicate this power may be needed, officers should consider all available options prior to arrest. This includes bringing the OA/NOA back to Scotland to facilitate the capturing of DNA or other relevant samples.

26.17 Investigating Officers should consider the following points when undertaking a cross border investigation:

- Travel time to the police station is not limited, but any extensive journey times may be open to scrutiny and therefore must be fully justified;
- Investigating Officers should not interview a NOA in transit;
- The rights of a NOA in relation to the Criminal Procedure (Legal Assistance, Detention and Appeals) (Scotland) Act 2010, as per PIROS procedure, remain exactly the same as if they had been arrested in Scotland. Any solicitor who provides advice must hold a Practising Certificate issued by the Law Society of Scotland. A legal advisor in England, Wales or Northern Ireland is unlikely to be so qualified;
- For planned arrests, SIOs may wish to consider early interaction with the Scottish Legal Aid Board Solicitor Advice Line in order to ensure a NOA's access to legal advice is available if required.
- The possibility of multiple arrests, circumstances where a parent/guardian/social worker may have to accompany a juvenile, provision of spare clothing to cater for circumstances where it is necessary to seize a NOA person's clothing, the need for NOA persons to be conveyed separately etc. should all be considered.
- PIROS forms will be required and any material required by the investigation/information relating to the care and welfare of the NOA, for example, production labels, DVDs, disclaimer forms, witness statement forms, PNC/SCRO printout etc. Investigating Officers should not anticipate that this type of material will be provided on arrival.

26.18 Case Reporting

26.18.1 When reporting cases which have involved the use of Cross Border Powers, the following information should be provided in the remarks section of the Standard Prosecution Report:

- Time of arrest;
- Place of arrest
- Officers involved;
- Police station where OA was taken to;
- Time of arrival at police station;

- Any incriminating remarks made during any such journey (which must not actively be sought);
- The provision of rights and any waiver of rights.
 - If rights are waived it should be established if the OA signed to acknowledge the waiver and if the waiver was audio/video recorded on any custody area CCTV system, and;
- Any delay in the provision of rights (in truly exceptional and compelling circumstances).

Where serious and urgent (S137A) provisions used, which are required over and above the already stated requirements-

- Reasons why matter is serious and urgent
- Details of Inspectors authorising
- Total time spent in custody out with Scotland (not including travel)
- Travel time to get to Scotland

26.19 Isle of Man / Channel Islands

- 26.19.1 Where a suspect wanted in connection with a Police Scotland enquiry is believed to be in the Isle of Man or the Channel Islands, there are a number of options available.
- 26.19.2 If there is not sufficiency for a warrant to be issued, an International Letter of Request (ILOR) (Form 084-013) must be sent to the International Cooperation Unit in Edinburgh. Further guidance is contained on the International Assistance Unit page on the intranet.
- 26.19.3 If there is sufficiency for an apprehension warrant to be issued, the Warrants SOP contains guidance for arrest warrants issued by a Scottish Court that require to be executed out with Scotland.

26.20 Offence committed in England, Wales or Northern Ireland and Suspect Resides in Scotland

- 26.20.1 As part of the United Kingdom, officers from Police Scotland may regularly call upon the support of forces out with Scotland to progress an investigation. As part of a reciprocal arrangement, Police Scotland will make custody centres in Scotland available to other UK police force colleagues to allow them to progress their investigations. **This arrangement only applies to suspects who have agreed to attend on a voluntary basis** to be interviewed by officers from another police force for an offence committed out with Scotland
- 26.20.2 If such a request is made then this will only be conducted at a recognised custody centre. All persons attending at a custody centre as a voluntary attendee should be recorded on the National Custody System.
- 26.20.3 Visiting officers will be responsible for ensuring that all necessary records relative to their force processes are completed. Copies are to be provided to

Police Scotland at the conclusion of the process and stored in accordance with local arrangements. Police Scotland will have complete control of all voluntary attenders from a care and welfare point of view.

26.20.4 Should an interpreter be required then it is anticipated that this will have been pre-arranged by the escorting officers prior to arrival at the custody centre. Any expenditure, solely connected to the investigation, will be borne by the escorting officer's force. Police Scotland will not cross-charge for the use of the custody facility.

26.20.5 **It should be noted that this is not the case for arrested persons.** Police Scotland does not operate under the Police and Criminal Evidence (PACE) Act 1984 and would not arrest a person for an English offence without warrant (unless deemed to meet the criteria outlined at Section 26.7). Furthermore, Police Scotland Officers cannot interview a suspect on behalf of another UK Police Force. If another UK Police Force wish to arrest a suspect and have them interviewed, they would have to travel to Scotland, arrest the suspect and convey them to the nearest PACE office, which presently is situated in Carlisle.

26.20.6 Should you require further advice or assistance, contact SCD Crime Strategy by email at

Information has been removed due to its content being exempt in terms of the Freedom of Information (Scotland) Act 2002, Section 30 Prejudice to Effective Conduct of Public Affairs.

27. International Enquiries

27.1 The International Assistance Unit (IAU) is a focal point for all International issues affecting the Police Service of Scotland.

27.2 It provides a single point of contact for Europol, Interpol via the National Crime Agency Crime Agency (NCA), Article 40 Schengen continuance of surveillance requests via UK SIRENE Bureau (NCA), International Criminal Conviction Requests (via ACRO) and the Foreign Law Enforcement Community (FLEC) liaison officers based at Embassies and High Commissions in London.

27.3 The provisions of Section 7 of the Crime (International Co-operation) Act 2003, govern the obtaining of evidence from a non UK country for use in a UK Court under this Act. A 'Letter of Request' is a formal legal instrument requesting a foreign competent judicial authority to carry out an investigation in their country, on behalf of Police Scotland, or to authorise an officer of Police Scotland to travel to that country to be present while the investigation is carried out.

27.4 This process is carried out through the IAU who will give guidance on how this should be submitted, as different countries have varied laws and protocols, each foreign country will have the final determination on whether or not the enquiry will be carried out and how it is to be conducted. The assistance that may be requested under this section is for obtaining any evidence which is outside the UK, as specified in the request for use in the proceedings or

investigation. For information, the Channel Islands and Gibraltar are British but we still required an ILOR.

- 27.5 Crown Office also deal with any translation requirements and with the service of it through diplomatic channels for onward transmission to the intended foreign recipient.
- 27.6 For the arrest process and subsequent procedures in relation to execution of European Arrest Warrants (EAW) refer to the Warrants SOP.
- 27.7 The International Assistance Unit is located at Specialist Crime Division, Scottish Crime Campus, Craignethan Drive, Gartcosh, G69 8AE. The Unit can be contacted by email

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28. Schengen Information System (Second Generation) (SISII)

- 28.1 SISII is a pan European database created to pass 'real time' information from one participating country to another, in the form of alerts relating to people and property. SISII is a highly effective mainstream European policing tool.

SISII ALERTS

- **Article 26:** Alerts for persons wanted for arrest for extradition purposes, for whom a warrant has been issued.
- **Article 32:** Alerts for missing persons who need to be placed under protection or in a place of safety, including minors and adults not at risk.
- **Article 34:** Alerts for witnesses or for absconders, or subjects of criminal judgements to appear before the judicial authorities.
- **Article 36:** Alerts relating to people or vehicles requiring discreet checks.
- **Article 38:** Alerts relating to objects that are misappropriated, lost, stolen or evidence and are sought for the purposes of seizing.

28.2 Article 26 Alert

Article 26 alerts are for persons wanted for arrest for extradition purposes, for whom a warrant has been issued. Article 26 is an alert solely relating to the extradition of a person either to or from Scotland.

There are two separate processes covered by Article 26:

- In order to extradite an individual **back** to Scotland, because they are wanted here, it is necessary to create an Article 26 Alert

- In order to extradite an individual **from** Scotland, because they are wanted by another SISII country, it is necessary to respond to an alert.

By creating an Article 26 Alert, a person wanted in Scotland can be circulated across all SISII countries or to a specific SISII country through the use of Geographic Targeting. Should the circulated person be located, extradition proceedings will be initiated in order to return them to Scotland. All SISII countries are able to act on the Alert and as such, a SISII circulation will guarantee a much higher opportunity of apprehending the offender.

Extraditing a person back to Scotland is covered under Part 3 of the Extradition Act 2003. There are two circumstances for which extradition can be sought.

- Accused persons
- Convicted

A person cannot be extradited back to Scotland for the purpose of interview.

28.2.1 Creating an Article 26 Alert

The following **MUST** be in place before an Article 26 Alert can be created.

- Obtain a domestic warrant for the accused or convicted person
(However, not all cases where a domestic warrant is in place and the suspect known to have fled to a SISII country are suitable for extradition or circulation on SISII. Offences of a lesser nature or where the suspect is due back to the UK at a known point in the future for example, may not be suitable. There may be significant costs associated with bringing suspects to Scotland and your actions must be proportionate. It is also essential to be case ready as the suspect cannot be extradited back to Scotland for the purpose of interview. If interview is required, judicial or Police Cooperation should be pursued.)
- Force or LEA Authority
(Before applying for Extradition and circulating the relevant person on SISII, authority must be obtained from a person suitably qualified to authorise the associated costs of bringing the person back to Scotland).
- Approval from Procurator Fiscal
- Signed EAW from Crown Office obtained

Once the above has been obtained the subject can be circulated on SISII. To create the Alert it is necessary to complete

- Schengen SIS II Alert Form A – Supplementary Information (can be found on Police Scotland Intranet)

The form is then e-mailed to

Information has been removed due to its content being exempt in terms of the Freedom of Information (Scotland) Act 2002, Section 30 Prejudice to Effective Conduct of Public Affairs

who will create the Alert.

28.2.2 Responding to an Alert

Following a Hit on your circulated Alert in another SISII country, SIRENE will notify you that the person has been located and arrested. SIRENE will use the designated SISII contact point, which is Police Scotland International Assistance Unit as a conduit for the exchange of data.

28.3 Article 32 Alert

Article 32 Alerts relate to missing persons who need to be placed under police protection or in a place of safety, including minors and adults not at risk.

An Article 32 Alert can be placed on a person missing from Scotland or may be encountered when a person missing from another participating SISII State is located in Scotland.

All Article 32 Alerts (whether incoming or outgoing) will be classified as:

- Adult not at risk
- Adult at risk
- Juvenile at risk

An Article 32 Alert **will be created automatically when a person is reported missing on PNC in the normal way** therefore ensuring that they are circulated across all SISII countries.

Should the circulated person be located, the person will either be taken into a place of safety or will be asked if they are prepared to disclose their whereabouts to the reporting person, depending on their vulnerability.

28.4 Article 34 Alert

Article 34 alerts can be used for the following purposes:

- Allows the name of a witness to be added to SISII to enable them to be located.

E.g. a Spanish national witnesses a murder in Scotland. She provides a statement at the time but returns to Spain prior to trial. Locating the witness through a SISII alert would enable the investigators to ascertain an address in order to serve a summons on the witness to return and give evidence.

Note: In order to create an alert for a witness, no formal court documentation needs to have been issued or planned. It may be that investigators wish to obtain details merely to phone or write to the person. Some actions such as UK officers interviewing in another SISII State will require a formal

international letter of request and advice should be sought from the procurator fiscal if unsure how to proceed.

- Persons who are to be served with a criminal judgment or other documents in connection with criminal proceedings in order to account for acts for which they are being prosecuted or persons who are to be served with a summons to report in order to serve a penalty involving deprivation of liberty. (Request will come via the Procurator Fiscal)
- An Article 34 Alert can also be used to locate / trace the whereabouts of wanted persons. This can be used in advance of the issue of a European Arrest Warrant (EAW). The phrase “**Sought for Judicial Purposes**” will be commonly seen.

28.4.1 Creating an Article 34 Alert

An Article 34 Alert should only be created where there is a belief that the subject has left the UK and is resident elsewhere. The submitting officer should use a Locate/Trace request and accompany it with

- Schengen SISII Alert Form M – Miscellaneous Information (can be found on Police Scotland Intranet)

This form is then sent to

Information has been removed due to its content being exempt in terms of the Freedom of Information (Scotland) Act 2002, Section 30 Prejudice to Effective Conduct of Public Affairs

who will create the alert.

The Alert will be circulated instantaneously across all SISII Participating States. If a check is carried out on that person by Law Enforcement Agents within a participating State, **and that person consents**, contact details will be forwarded via the relevant SIRENE (Sharing Infrastructure and Resources in Europe) Bureau to the UK SIRENE Bureau who will return the details to the circulating officer via the agreed route within Police Scotland.

NOTE: Article 34 is an overt Alert where the subject is likely to be told that the alert is in existence. Article 36 Alerts should be used for discreet enquiries.

28.4.2 Responding to an Article 34 Alert

Should Police Officers in Scotland encounter a person subject to an Article 34 Alert the subject should be asked to provide their place of residence or domicile as requested on the alert. The alert is not discreet, as if a need to be discreet existed an Article 36 Alert would have been utilised.

Note: The person requested is not legally obliged to provide a response. If they refuse to provide details, it is a matter for them and no coercive powers can be

used. In any event, a SID log should be submitted regarding the circumstances.

In all cases, whether a person has provided details or not, a response must be submitted to the UK SIRENE Bureau via PNC by the prescribed Form using the SIS ID number taken from the Alert.

Where details of the person have been obtained, a SISII Form 'G' should be submitted (found on Police Scotland Intranet).

Where details of the person have not been obtained, a SISII Form 'H' should be submitted (found on Police Scotland Intranet)

Note: A PNC Located Report must also be completed when either the SISII 'G' or 'H' forms are submitted.

28.5 Article 36 Alert

Article 36 allows a participating state to place an Alert, predominantly on a person or vehicle, requesting that if that person or vehicle is located, that a discreet check is carried out.

Creating an Article 36 Alert

An Article 36 Alert should only be used when there exists a need to gather the information in a discreet way.

Article 36 Alerts are very useful for monitoring the movements of persons or vehicles, boats, aircrafts and containers, particularly those involved in organised crime or cross border crime, trafficking and sex crimes. The benefits of circulating such individuals or vehicles on SISII Alerts is significant and as using this resource has little financial implications on UK Law Enforcement Authorities, alerts should be used where benefit can be added to an investigation or public protection is enhanced.

To create an Article 36 Alert the following form requires to be submitted:

- Schengen SISII Alert Form M – Miscellaneous Information (can be found on Police Scotland Intranet)

This form is then sent to

Information has been removed due to its content being exempt in terms of the Freedom of Information (Scotland) Act 2002, Section 30 Prejudice to Effective Conduct of Public Affairs

who will create the alert.

By creating an Article 36 Alert, the Alert will be circulated instantaneously across all SISII Participating States. If a check is carried out on that person or

that vehicle by Law Enforcement within a Participating State, as much information as possible will be collected discreetly and forwarded via the relevant SIRENE Bureau to the UK SIRENE Bureau. This information will then be returned to the circulating officer via the agreed route.

Article 36 Alerts will assist Law Enforcement Agencies monitor the movements of those that they wish to apprehend or who are a threat to public security. An alert may be kept in place so long as it fulfils the criteria set out in the Alert.

28.6 Article 38 Alert

Article 38 allows officers of Police Scotland to place an Alert on an item in order to locate it so that it can be seized either because it is stolen or is evidence in a criminal enquiry. Such items can be added and circulated through PNC by the circulating officer and include:

- Motor vehicles with a cylinder capacity exceeding 50cc;
- Trailers with an unladen weight exceeding 750 kg, caravans, industrial equipment, outboard engines, containers, boats and aircraft;
- Firearms;
- Passports and driving licenses will be added overnight by the appropriate agency;
- Blank official documents which have been stolen, misappropriated or lost;
- Issued identity papers such as; passports, identity cards, driving licenses, residence permits and travel documents which have been stolen, misappropriated, lost or invalidated;
- Vehicle registration certificates and vehicle number plates which have been stolen, misappropriated, lost or invalidated;
- Banknotes (registered notes);
- Securities and means of payment such as; cheques, credit cards, bonds, stocks and shares which have been stolen, misappropriated, lost or invalidated.

Article 39

Article 39 describes how Article 38 Alerts need to be dealt with.

If a search brings to light an alert for an object which has been located, the authority which matched the two items of data shall contact the authority which issued the alert in order to agree on the measures to be taken. For this purpose, personal data may also be communicated in accordance with this decision. This information shall be communicated through the exchange of supplementary information.

The Member State which located the object shall take measures in accordance with national law.

Article 39(1) requests that if an object subject to an Alert is located, that fact is relayed via the SIRENE Bureau in the finding country to the SIRENE Bureau in the country that circulated it. Once this information has been relayed, an agreement can be reached between the two countries as to how that item can be seized and returned. The initial requirement is the notification only.

Following the notification the two states can agree on what measures need to be taken next and which agreements can be used to ensure legality in both countries.

The obligation under Article 39 (2) is merely to inform the state that circulated the Alert that the object circulated has been located. This is done directly from one SIRENE Bureau to another through the use of a form 'G' (found on PNC). Once the object subject of an Alert has been located by a police officer or other Law Enforcement Agent within a country, they will notify their SIRENE Bureau who will pass the information to the circulated Bureau.

In Scotland we must ensure that we have domestic powers in place prior to seizing any object. Many objects will have been seized during the course of investigations and subsequent checks reveal that they are subject to an Alert. As domestic powers have been used in order to seize the object, this is acceptable.

It may be that the existence of the Alert will add to the grounds to make an arrest (e.g. potentially for Reset) or to seize objects in order to investigate matters (Provision contained within Section 60, Civic Government (Scotland) Act 1982 – search/seizure of stolen property could be utilised).

Note: A person may be arrested in Scotland for reset of an object stolen in Spain, for example. The Spanish may be investigating a much larger conspiracy to commit armed robbery. Prosecuting the person for reset in Scotland may severely impact the ability of the Spanish to prosecute the substantive offence. Liaison through the SIRENE Bureau and the Prosecuting Authorities will help resolve issues of which country should have primacy for the investigation.

28.6.1 Creating an Article 38 Alert

To create an Article 38 Alert, a PNC LOS report must be created in the normal way. By circulating a vehicle or object on an Article 38 Alert Seize and Retain (SR) code, it may be seized and retained by another participating state should they locate it, and if the law in that country allows. An agreement can then be reached between the circulating SIRENE Bureau, and the SIRENE Bureau in the finding state, in order to return the object. The SIRENE Bureau in the finding state will advise what is required under the law of that country to return the object.

Key points for creating –Seize and Retain Alerts:

- As much detail as possible regarding the owner/the insurer or those that want the object seized must be included on the PNC or be accessible 24/7 and its location stored on PNC. This will assist in dealing with the object

efficiently should it be located at any time day or night (see Locate/Trace Packages – Section 20)

- If the officer in Scotland requests seizure, and another country seizes it on our behalf, we must ensure that any support is given to tracing owners etc. to assist that country repatriate as soon as possible.
- Where stolen vehicles are recovered, insurance company details should be passed to the finding country to allow direct contact.
- The PNC must be updated regularly to ensure that circulated objects are cancelled on SIS if they are no longer reported missing in the UK. Without cancellation, an Alert will remain on SIS for 10 years which will trigger action across all participating states should the object or vehicle be located.

Note: It is the responsibility of the Law Enforcement Agency that owns the Alert to organise the repatriation of the object. The UK SIRENE Bureau will assist in this task but will not take the lead. Normally this will be handled by the insurance company or their appointed agent.

Article 38 Alerts default to “Seize and Retain (SR)” when created. To change the request to “Seize for evidence/ forensic examination”, a manual intervention is needed by the PNC operator to change the default SR code to EV. By changing the request from SR to EV, participating states may (if authorised under their domestic law) seize and carry out a forensic examination of the object, if located. This level of assistance can be extremely useful, however a number of key issues arise:

- Countries may seize the object but could require a formal International Letter of Request to Seize for Evidence/Forensic Examination.
- Other countries may not have the same standards of forensic examination as expected by UK Courts.
- Officers of Police Scotland may be required to attend the examination to retrieve the evidence.
- Forensic practitioners in other participating states will be unlikely to attend Scottish Courts to give evidence and if they did, there are cost burdens on Police Scotland.
- There is a general agreement that no costs will be charged between states for forensic work, however costs for retrieval of productions or witness expenses may exist.
- Ensure a plan is in place as to what forensic examination is required prior to the location of the object.

Due to the complexities and potential costs involved, authority will need to be obtained from an officer of Superintendent Rank or above, prior to an EV circulation taking place. SPA forensic staff and COPFS should also be consulted.

Note: It is likely that an object/vehicle circulated on Article 38, with a request to “Seize for evidence/forensic examination” will initially be seized only if located overseas. Before any efforts are made to carry out a forensic examination, the

SIRENE Bureau in the finding state will contact the circulating SIRENE Bureau so as an agreement can be made as to how to progress the examination. In such a case, the UK SIRENE Bureau will consult with the originator of the Alert in Scotland.

28.6.2 Responding to an Article 38 Alert

By conducting a PNC check on a vehicle or object, the response will indicate whether the item is subject to an Article 38 Alert. The instruction will be to either “Seize or Retain (SR)” or “Seize for evidence/forensic examination (EV)”. If Scots Law permits, take the required action. If it does not, respond to SIRENE on:

Schengen SISII Alert – Form G (can be located in Police Scotland Intranet)

The ‘G’ Form will inform the requesting state that the item has been located even if we could not seize or forensicate it.

Note: When conducting Vehicle enquiries on PNC, UK Law Enforcement may be able to see two extra Hazard markers created by other SIS States that we are unable to create. These are SM and CL.

Stolen or False Matriculation (SM)

Stolen or False Matriculation is an odd term used by Europe and means that the object is travelling under a false identity such as VRM or identity number. In its broadest terms it means that any identification number attributed to it may be false or stolen.

Suspicion of Clone (CL)

Suspicion of Clone means that the item is represented as another legal object. The procedures of seizure, retention and seizure for evidence/ forensic examination are the same as previously outlined above.

Note:

- The UK does not always require an International Letter or Request in order to carry out forensic examinations.
- Other countries may need to supply an International Letter of Request in order to forensically examine an object.
- In all cases we should try and assist other countries gather what they want in the way they want it.
- Police Scotland cannot cross charge other countries for assistance as they do not charge us.
- Do not conduct any form of examination (unless as part of a domestic case) until instructions have been received as to how to proceed.

Lost, stolen or misappropriated objects can be circulated under Article 38, as can objects that are sought for use as evidence. In order for Police Scotland to

create an Article 38 alert on a vehicle, a PNC lost or stolen circulation must be created first even if it is to be seized as evidence only and is not stolen.

This creates an anomaly whereby Scottish Officers may wish to circulate a vehicle (used in an abduction, for example) as an Article 38 alert with the instruction “Seize for evidence/ forensic examination”. However the vehicle is not technically lost or stolen.

29. Serious Crime Analysis Section

- 29.1 The National Crime Agency (NCA) manages the Serious Crime Analysis Section (SCAS). Case criteria for submission to NCA include crimes committed by a stranger or unknown relationship for:
- All murders with a sexual element;
 - Murders with an unknown motive (consult with SCAS);
 - All rapes;
 - All abductions with sexual elements;
 - All lesser sexual offences with aggravations of; weapon, excessive violence, theft by Housebreaking (burglary); and
 - All murders with a sexual element where the victim and suspect are known to each other but where no previous sexual relationship had occurred.
- 29.2 In order to satisfy compliance, officers should ensure in the first instance that the following documents are submitted electronically within the 20 day timescale:
- SCAS Request Form;
 - Crime Report or Crime File;
 - Victim’s statement.
- 29.3 Additional relevant paperwork should also be sent without delay although it is not assessed for compliance. This may include scenes of crime photographs, additional statements of witnesses who speak to the methodology of the crime, medical reports, etc.
- 29.4 Where there is any concern regarding the sensitivity of passing these there should be consultation with the SIO and/or COPFS.
- 29.5 To ensure full conformity to SCAS submission and criteria and any further details please refer to the SCAS contact officer as noted in the geographical appendices.
- 29.6 Further information is contained in the SCAS Criteria and SCAS Criteria Definitions documents.

Appendix 'A'

Location of Digital Interview Recording and Remote Monitoring Facilities

West Command				
Division	Location	IRS Units	Remote Monitoring	Monitoring Status
G	Helen St	6	6	Live
G	Stewart St	3	2	Live
G	London Rd	2	2	Live
G	Cathcart	2	2	Live
G	Baird St	2	No	N/a
G	Maryhill	1	No	N/a
K	Greenock	4	2	Live
K	Paisley	2 – Not Yet Live	No	Not Yet Live*
L	Clydebank	2	2	Live
L	Dunoon	1	1	Live
L	Oban	1 (+ 1 portable)	1	Live
L	Lochgilphead	1 (+ 1 portable)	1	Live
L	Campbeltown	1	No	N/a
L	Rothesay	1	No	N/a
U	Ayr	2	No	N/a
U	Kilmarnock	2	2	Live
U	Saltcoats	2 (+ 1 portable)	2	Live
Q	Motherwell	2	2	Live
Q	Coatbridge	2	2	Live
Q	Hamilton	2	No	N/a
Q	Lanark	1	No	N/a
Q	East Kilbride	1	No	N/a
SCD	MIT West	1 portable	No	N/a
SCD	SCD – Human Trafficking	2 portable	No	N/a
V	Annan	1	No	N/a
V	Loreburn	2 (+ 2 portable)	2	Live
V	Castle Douglas	1	No	N/a
V	Stranraer	2	2	Live

Appendix 'A' cont'd

North Command				
Division	Location	IRS Units	Remote Monitoring	Monitoring Status
A	Kittybrewster	6	3	Live
A	Aberdeen (Bucksburn)	1	Yes	Live
A	Fraserburgh	2	Yes	Live
A	Elgin	2	Yes	Live
A	Inverurie	1	No	N/a
A	Peterhead	1	No	N/a
D	Dundee	4	Yes	Live
D	Arbroath	2	Yes	Live
D	Perth	2	Yes	Live
N	Burnet Rd	3	2	Live
N	Fort William	2	2	Not connected
N	Alness	2	No	N/a
N	Aviemore	1	No	N/a
N	Dingwall	2	No	N/a
N	Kirkwall	1	No	N/a
N	Lerwick	1	No	N/a
N	Nairn	1	No	N/a
N	Portree	1	No	N/a
N	Stornoway	1	No	N/a
N	Thurso	1	No	N/a
N	Wick	2	No	N/a
N	Western Isles	1 Portable	No	N/a
N	Radio Comms	3 Spare/Portable	No	N/a

Appendix 'A' cont'd

East Command				
Division	Location	IRS Units	Remote Monitoring	Monitoring Status
C	Falkirk	3	3	Live
C	Stirling	2	Nil	N/A
E	St Leonards	5 (+ 3 spare)	5	Live
E	Drylaw	1	No	N/a
J	Livingston	4	4	Live
J	Dalkeith	2 (1 Portable)	1	No
J	Galashiles	2 (1 Portable)	No	N/a
J	Hawick	1	No	N/a
P	Kirkcaldy	3	2	Live
P	Dunfermline	2	2	Live
P	Levenmouth	2	2	Live
P	Radio Comms	6 Spare	N/a	N/a

Note* Paisley office will not go=live until the custody suite is renovated – no date set, with DIR retained as spares at ICT

Note* Levenmouth is no longer a custody suite and the facilities are being used for significant witness interviews

Forth Valley (C Division)

7.3 Digital Recorded Suspect Interviews

Administration

Interviewing officers should obtain blank sealed DVD's from either the Criminal Investigation Department at Falkirk or Stirling, dependant on where the interview is taking place.

DVDs will be supplied in sealed twin packs. DVD security seals / labels will also be available from the Criminal Investigation Department at Falkirk or Stirling, which are yellow in colour. The seal on the discs should be broken in the presence of the suspect in the Interview Room and the discs placed in the DVD recorder. The interview should then be conducted in accordance with guidelines.

A unique serial number is to be issued for each interview and entered on the disc register and DVD security seal / label. In the instance of discs being provided from Falkirk, each serial number will begin with the letter 'F', and similarly for discs from Stirling, these will begin with the letter 'S'. The disc register will have a running total of the serial numbers already used.

At the conclusion of the interview the discs are to be removed from the apparatus, with one of the discs being sealed by means of the security seal / label being placed around the disc holder. Interviewing officers should play back the Police or working copy to ensure recording has taken place.

Under no circumstances is the master disc to be played back, it is to be sealed as soon as possible after removal from the machine.

Storage of Master Discs

Master discs are to be treated as productions and should be stored together with the Police working copies in the cabinets provided for this purpose.

The master disc should be lodged with the Procurator Fiscal when the appropriate request is received from them.

Where it transpires that an interviewed suspect becomes a witness in the case, notification of the existence of an interview disc is to be included in the Police report.

Master / working discs for the current year are stored at either the Criminal Investigation Department at Falkirk or Stirling. Discs from the previous year are also stored at the relevant department, which are then forwarded for long-term storage at Falkirk Police Station.

Dumfries and Galloway (V Division)**7.3 Digital Recorded Suspect Interviews****Location of Digital Interview Recording and Remote Monitoring Facilities**

See Appendix 'A'

Administration

DVD's, inserts and seals are stored within divisional CMS offices. The DVD's are in sealed packs of two and should only be opened in the presence of the suspect. Supplies of DVD's, inserts and labels will be monitored and maintained by the respective Detective Inspector.

Prior to conducting an interview, the interviewing officer is responsible for obtaining a 10 digit sequential DVD reference number from the electronic register. Only trained interview officers have access to the register. All fields must be completed on the electronic register.

Should access be required to the register by additional staff then a request should be submitted to SPSA via the ITBM portal having gained the required authorisation.

When conducting interviews on the mobile machines, out of force or 'cross-border', the onus is on the interviewing officer(s) to obtain a sequential DVD number prior to travel.

After concluding an interview the DVDs, inserts and seals will be completed with the relevant details of the interview. It should be noted that since the move to DVD's there is no longer a blank field on the insert, seal or DVD for the unique DVD (formerly tape) reference number, however this should be documented on a visible blank area. DVD inserts should be clearly marked '1 of 2' and '2 of 2'. If multiple sets of DVD's are used then they will be allocated a further DVD reference number.

Immediately upon conclusion of the interview and upon being placed within the respective DVD cases, disc '1 of 2' will become the 'Master DVD' and should be securely sealed and in the presence of the interviewee. It should be noted that upon concluding an interview it takes approximately 6-7 minutes for the DVD's to finalise prior to ejecting.

Storage of DVDs

The discs should be lodged with the Custodian at Dumfries Police Station or within respective divisional DVD / tape stores and the relevant production books will be completed; allocating a unique production number. There should be no requirement to access the 'Master DVD' until such times as it is being transferred to the Procurator Fiscal. It is the enquiry officer's responsibility to transfer interview DVD's to the Procurator Fiscal. The two remaining 'working

copies' should be signed in and out of the respective stores as and when required.

Portable Interview Machine

Portable interview machines are available at Dumfries, Stranraer and Castle Douglas. These are managed by the respective Detective Inspectors within Crime Management Services. A register accompanies each machine and documents availability and person(s) using the equipment. The register must be completed on each occasion the equipment is used. The mobile units will be temporarily used to replace static machines should they become inoperative and require repair.

The static and mobile interview machines are 'Interview Recorder System' models manufactured by 'Weston Digital Technologies'. The machines will not operate unless fully loaded with two compatible DVD's. They are capable of continuously recording for a maximum of 2 hours; an audible warning will advise interviewing officers ten minutes prior to the end of the disc and a reminder message will appear on the screen five messages prior to the end of the disc. The machines will automatically adjust the time to take account of the change to and from British Summer Time. User Guides accompany each machine.

Fault Recording

All faults with the interview recording and / or remote monitoring equipment should be recorded immediately through the ITBM portal and Detective Inspectors within Crime Management Services and Specialist Services should be notified to enable notification to be cascaded through their respective departments.

Transcription of Interviews / Lodging DVD's with COPFS

COPFS have responsibility for transcribing all audio and visually recorded interviews that relate to an accused person. Transcriptions will be forwarded electronically via email from COPFS via Case Management to the enquiry officer to be 'proof read' against a working copy of the interview. The transcript is set to 'track changes', should be amended and highlighted as necessary and thereafter electronically returned to COPFS via email to the designated person.

Should a witness initially be interviewed as a suspect prior to their status changing, then the onus is on the Police to transcribe the interview and not COPFS. There are designated staff and computers at Dumfries, Annan, Castle Douglas and Stranraer to facilitate the transcription of interviews.

The DVD's can be played on all networked computers by means of officers using their second logons. Enquiry officers should refrain from requesting typists to transcribe interviews unless they fall within the aforementioned circumstances. The onus is with the enquiry officer to ensure all reports to COPFS contain salient extracts of the respective interviews and these should be recorded verbatim.

Fife (P Division)

7.3 Digital Recorded Suspect Interviews

Location of Digital Interview Recording and Remote Monitoring Facilities

See Appendix 'A'

Administration

Sealed blank DVDs for the interview, together with the sealing labels will be kept secure prior to their allocation. Prior to any interview involving the use of DVDs a unique reference number will be obtained. A register is held by Crime Management at all localities where digital recording interview rooms are available. The Local Crime Manager will maintain oversight of all administrative procedures regarding the issue and storage of the DVDs.

The suspect or accused, along with their parent/guardian, appropriate adult, interpreter or legal adviser, if applicable, must be informed that the interview is being recorded on DVD.

The suspect should also be warned that the interview may be viewed by other officers where remote monitoring facilities are available.

Two sealed DVDs should be unwrapped in the presence of the interviewee and inserted into the recording equipment and the onscreen instructions should be followed. . Once the preamble and formal caution have been given, the interview can commence.

The principles for Investigative Interviewing remain the same as in any other interview situation, whether being recorded or not, and should always be fair to the suspect or accused. Should the interview be lengthy, consideration should be given to a 'comfort break' to enable refreshments, or access to a toilet. If the interview is to be temporarily halted then the appropriate pre-amble should be stated and when the interview re-commences the suspect **MUST** be reminded that they are under caution. If the break is anticipated to be less than 10 minutes then the recording should continue, however if it is anticipated to be longer than that then the discs should be stopped and new discs used upon commencement.

At the conclusion of the interview the DVDs are stopped and once the recording process is concluded the discs will automatically be ejected from the machine. One disc should be sealed in the presence of the interviewee using the supplied DVD seal and signed by all persons present. Should the suspect refuse to sign, the label should be endorsed with the words "Refused to Sign". The second "working copy" disc should be stored as per local procedures. Under no circumstances should the Master copy DVD be played unless with the express permission of COPFS.

A record including suspect or accused details, date of interview, crime, interviewing officers and the unique reference number, will be maintained in a dedicated log at all locations where digital recording facilities are available. It is the responsibility of the interviewing officer to ensure the log is completed at the termination of any interview.

The supervising Crime Management officer at the location of the digital recording facility will check records on a regular basis to ensure they are maintained to the required standard.

The master DVD will be stored locally (subject to local procedure) until written instructions are received from the Procurator Fiscal. .

Fault Reporting

Users will quickly become familiar with the operation of the equipment. Should a fault occur, users are asked log a call with ITConnect; fully describing at what stage the fault occurred.

IT Support Services will attempt to remedy the fault on location, however, more serious faults may require the removal of the equipment and return to the manufacturer.

Other than simple fault finding, (i.e. checking cables are connected), no attempt should be made to repair a Unit by anyone other than IT Support staff.

Only users who have 'Administrator' level access and who have received training will have authority to access and change settings. This should be done with care as this has the potential to affect every interview thereafter.

North East (A Division)

7.3 Digital Recorded Suspect Interviews

Location of Digital Interview Recording and Remote Monitoring Facilities

See Appendix 'A'

Administration

A Digital Interview Recording Guidance document has been produced to support staff.

Fault Reporting

Users will quickly become familiar with the operation of the equipment. Should a fault occur, users are asked log a call with IT Support Services; fully describing at what stage the fault occurred.

IT Support Services will attempt to remedy the fault on location, however, more serious faults may require the removal of the equipment and return to the manufacturer. The repair service to date has very prompt and units have been returned to Grampian Police in less than a week.

Other than simple fault finding, (i.e. checking cables are connected), no attempt should be made to repair a Unit by anyone other than IT Support staff.

Only users who have 'Administrator' level access and who have received training will have authority to access and change settings. This should be done with care as this has the potential to effect every interview thereafter.

Edinburgh, the Lothians and Scottish Borders (E and J Divisions)**7.3 Digital Recorded Suspect Interviews****Location of Digital Interview Recording and Remote Monitoring Facilities**

See Appendix 'A'

Administration

A unique interview Disc number will be required for each interview and will be required to be entered on each disc and the seal attached to the master copy on conclusion of the police interview.

Officers interviewing suspects from outwith their Command Area will obtain a serial number from their home station.

On commencement of the recording of a police interview immediately after the initial pre amble officers shall read verbatim the pre –interview review of rights. A copy of this is contained within each interview room.

On conclusion of the DRI the discs are to be removed and the master copy sealed in the presence of the suspect/accused

Storage of Interview Discs

Interview DVDs are stored at each CID department in appropriate cabinets located with a secure office. A register/log is also located at each CID office and should be completed when lodging interview DVDs.

Example

DISC NUMBER	ACCUSED/SUSPECT DETAILS	INTERVIEWING OFFICERS	LOCATION OF DISC(TO PF DATE)
MIT/036/12	A.SMITH	DC001/DC002	01/01/13

Reporting Faults

In instances where a fault is discovered with the recording equipment the fault should be immediately logged with the IT Helpdesk or via the red icon on the IT Contact Portal. A member of ICT will thereafter attend and either effect the repair on location or make arrangements for the device to be sent to Capita for off-site repair. Under no circumstances should Capita be contacted directly.

Highlands and Islands (N Division)

7.3 Digital Recorded Suspect Interviews

Location of Digital Interview Recording and Remote Monitoring Facilities

Appendix 'A'

Administration

An Interview Recording Log and Index CR/21/5 will be maintained at each designated interview room and this will record sequentially each interview carried out. (This is no change from the previous recording of taped interviews). If further discs are used in a series of interviews these will be recorded in red pen entering the appropriate suffix e.g. 14A; 14B; 14C.....

The discs from each interview, after being completed with relevant details of the interview, will be placed in the protective covers provided. One copy will be entered in the station interview production schedule and lodged with the Productions officer. The second copy will be held at the station as a working copy. (This again is no change from previous arrangements for handling and storage of taped interviews).

These discs once recorded upon are tamper proof and therefore the protective case does not require to be sealed.

It will be the responsibility of the Divisional Productions officer to reconcile the discs entered in the station interview production schedule with those discs lodged by the detective officers.

The Divisional Productions officer will forward this disc to the appropriate Procurator Fiscal when required to do so and record this transfer of a production in line with standard force procedures.

Detective officers from one station interviewing a suspect at another station throughout the force area will utilise the Interview Recording Log and Index at the host station.

Detective Officers interviewing suspects outwith the force area and in 'Cross Border' scenarios will obtain a serial number from their own home station Interview Recording Log and Index and use this for the purposes of that particular interview.

Supplies of digital recording discs, protective covers and labels will be ordered through each divisional Business Management Unit.

The divisional Detective Inspector will be responsible for ensuring the processes of recording these interviews, supply of discs, covers, disc labels

and recording equipment are all managed effectively. He/she may devolve this to the local Detective Sergeant.

The following forms/documents are to be utilised to account for the Discs held and interviews carried out at each division;

Stock Card – CR/21/4

Interview Recording Log – CR/21/5

Labels for disc cases – (CR Numbers pending.) White labels – Police, Blue labels - PF

Disc Production Register (This is a production register set aside for this purpose)

Interviews carried out at the designated locations will utilise the following letters as prefix to the disc numbers. This will help to identify geographical location of the case and interview:

Alness	F	Lerwick	L
Aviemore	M	Nairn	R
Dingwall	E	Portree	S
Dornoch	G	Stornoway	H
Fort William	P	Thurso	T
Inverness	N	Wick	J
Kirkwall	K		

Fault Reporting

Any faults with the Weston Digital Technologies 'Interview Recorder System' shall be reported to the ICT Service desk –

Information has been removed due to its content being exempt in terms of the Freedom of Information (Scotland) Act 2002, Section 30 Prejudice to Effective Conduct of Public Affairs,

or logged on the ICT Service Desk Portal on COE2.

The Interview Recorder System will automatically adjust the inbuilt clock to take account of the change to and from British Summer Time.

A Pro-forma booklet is located in each interview room and details the following procedures:

- Commencing an interview;
- Changing discs;
- Taking a break in the interview;
- Caution and Charge;
- Concluding an interview;
- User guide to the Weston Digital Technologies, Interview Recorder system.

The Weston 'Interview Recorder System' (IRS) will record continuously for a maximum of 2 hours. 5 minutes prior to the end of the disc a buzzer will alert the officers that the IRS is about to cease recording.

It is the responsibility of COPFS to transcribe any Investigative Interviews that they wish to use during criminal proceedings.

In normal summary cases, 'Production' DVD's will be submitted to the Procurator Fiscal as soon as possible following interview, accompanied by a crime report.

Crime reports need to contain sufficient information to indicate that a DVD recording was made of the interview with the suspect and whether or not it contains evidence. The most salient remarks or replies during the interview should be contained in section 'Details of Police Interview' of the report and care should be taken to record these replies accurately.

In petition cases, where comments and replies may be relevant to an early Judicial Examination, these should be reported verbatim to the Procurator Fiscal on appropriate Form CR/21/7.

Voluntary statements after caution and charge still require to be written. Therefore a written Voluntary statement should always be available for typing and submission to the Procurator Fiscal in advance of any Judicial Examination. Otherwise, only the most salient replies should be reported verbatim.

The Police will not engage in transcribing lengthy taped interviews.

In cases where a full transcription of the tape is made by the Procurator Fiscal's staff, he/she will submit a copy to the Reporting Police Officer. This transcription will be compared with the 'Working' tape and either agreed as accurate or any apparent inaccuracies or misunderstandings brought to the attention of the Procurator Fiscal and highlighted in red pen on the rough copy transcription.

Transcription facilities are available for officers use as required.

Strathclyde (G, K, L, Q, U Divisions)

7.3 Digital Recorded Suspect Interviews

Location of Digital Interview Recording and Remote Monitoring Facilities

See Appendix 'A'

Administration

Interviewing officers are to ensure that there two DVDs available in the interview room prior to commencing the interview. These will be issued by the Duty Officer who is to enter such details as are known at that time onto the Tape/Disc Record (Form 3:30:5).

DVDs will be supplied in sealed twin packs. DVD inlay cards (Form 3:30:9) and DVD security seals (Form 3:30:10) will be issued separately. The seal on both initial discs should be broken in the presence of the suspect in the Interview Room and the DVDs will be placed in the DVD recorder. The interview should then be conducted in accordance with the guidelines.

A unique 10-digit serial number is to be issued for each interview and entered on the index log and related DVDs. This will show the Sub-Division, year, room number, and interview number. Serial numbers will be issued on a sub-divisional basis, NOT for individual rooms. Each recording room has been allocated a unique number according to its sub-divisional location. For example, GA/17 02/0234 indicates an interview in GA Sub-Division in 2017, using room number 02, and was the 234th interview conducted in 1992. Subsequent tapes of the same interview should be endorsed /2, /3 and an appropriate line entry made on Disc Record Form (3:30:5)

G	A	1	17
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0	2	0	2	3	4
---	---	---	---	---	---

At the conclusion of the interview the discs are to be removed from the apparatus and the face label and tape inlay card for both should be completed and the tapes/discs placed in their holders. One disc is to be selected as the master disc, and the disc security seal (Form 3:30:10) completed in full and used to seal it in its case. Interviewing officers should play back the police or working copy to ensure recording has taken place.

Under no circumstances is the master disc to be played back, it is to be sealed as soon as possible after removal from the machine.

Storage of Master Tapes / Discs

Master discs are to be treated as productions and stored separately from the police working copies in the metal cabinets and trays provided for this purpose pending delivery to the Procurator Fiscal. The production reference number is to be appended to the DVD Security Seal (Form 3:30:10).

The master disc is to be lodged with the Procurator Fiscal at the same time as the case papers, with the master seal unbroken. It is to be accompanied by Form 3:30:4, and the usual Production Receipt Form 1:11:4. The tape/disc need not be recorded on Production Release Note (1:11:6), as separate arrangements will exist for the return of tapes/discs to the police when no longer required by the Procurator Fiscal. Master tapes/discs for which no case is being submitted are nevertheless to be retained in the production room.

Where it transpires that an interviewee becomes a witness in the case, notification of the existence of an interview disc is to be included in the police report and witness statement forms. If the Procurator Fiscal subsequently requests that the disc be forwarded to him/her, procedures above are to be followed with the exception that Form 3:30:4 should be clearly endorsed "WITNESS INTERVIEW DISC AS REQUESTED".

Working discs (police copy) are to be returned to the Duty Officer for storage in a separate lockfast cabinet. This disc need not be sealed and can be withdrawn from the files to be played back if required, but access should be controlled by the Duty Officer or such other designated officer as the Divisional Commander deems suitable. Temporary removal of working discs from storage, which should be kept to a minimum, is to be recorded on the Disc Record Form (3:30:5). Any request for access to tapes / discs by Solicitors is to be directed to the Procurator Fiscal.

Working tapes / discs should be checked on a monthly basis and storage trays of discs, which are 12 months old, are to be forwarded to the Divisional Filing Registry for long term storage. A photocopy of the relevant Tape / Disc Record Form should accompany them.

Fault Reporting

In instances where a fault is discovered with the recording equipment the fault should be immediately logged with the IT Helpdesk or via the red icon on the IT Contact Portal. A member of ICT will thereafter attend and either effect the repair on location or make arrangements for the device to be sent to Capita for off-site repair. Under no circumstances should Capita be contacted directly.

Tayside (D Division)

7.3 Digital Recorded Suspect Interviews

Location of Digital Interview Recording and Remote Monitoring Facilities

See Appendix 'A'

Administration

Interviews will be recorded on 2 x DVDs which will be marked with the relevant URN obtained from the log within the respective area CID areas. One DVD copy of each interview will be submitted to COPFS in the event of a custody case and in all cases the relevant log will be updated with details of where the DVDs are stored.

Procedure at Interview

Interviewing officers will obtain 2 x DVDs along with the appropriate security seals from the stock within each Divisional CID. Each subject interview will be allocated a unique reference number from the logs located within each CID area (officers in Arbroath should record details on the excel spreadsheet within the CID shared drive). The number will be consequential for the calendar year prefixed by the following codes:

E – Arbroath

D – Dundee

P – Perth

Subsequent interviews with the same subject will be endorsed Red and Red1 respectively. For example:

- D123/12
- D123/12 (RED)
- D123/12 (RED1)

At the conclusion of each interview the security seal will be completed by the interviewing officers and the master DVD sealed in the presence of the subject. All DVDs will be recorded in the relevant production record relative to the enquiry and if the subject is appearing from custody the master DVD will be forwarded to the Procurator Fiscal along with the relevant case papers. In all other circumstances the master DVD along with the working copy are to be returned to each Divisional CID for storage.

DVDs, logs, security seals are available in hard copy from each area CID. An aide memoire relating to the structure of the caution to be used during the interview is on display within each interview suite.

Fault Reporting

In instances where a fault is discovered with the recording equipment the fault should be immediately logged with the IT Helpdesk or via the red icon on the IT Contact Portal. A member of ICT will thereafter attend and either effect the repair on location or make arrangements for the device to be sent to Capita for off-site repair. Under no circumstances should Capita be contacted directly.

Occurrence Report for Investigative Liberation Appeals Guidance Notes

CHARGES

Charges - Enter the crime reference number and the relevant charge code – this assists COPFS with directing the OR to the most appropriate business area.

SUMMARY

Advice / Guidance - All IL conditions to be inserted here with supporting rationale behind imposition – “Suspect was liberated from Helen St Police Station at 1300hrs on Monday 5 June 2018 under the following conditions:

1. **He does not enter Main street East Kilbride** - Victim and main witnesses to incident reside in this street and all require to be interviewed.
Rationale: This was not possible at the time of the incident as a result of ongoing related police enquiries at SGH and locus examination.
2. **He does not contact witnesses Mary or Jill Smith, and John Jones or Jo Brown either, in person or via a third party or by using any telecommunication or social media device or platform.**
Rationale: This is required to prevent the suspect contaminating witness testimony as he has previously obstructed police enquires similar in nature to the ongoing investigation.

Antecedents - Brief antecedents of suspect. If more than one suspect list all starting with appellant.

Description of locus - Description of locus and link to specific conditions - Locus is a 3 bedroom, detached dwelling house situated at 1 Main Street, East Kilbride, the family residence of witness Smith. It is situated directly opposite the suspect home address. Witnesses Brown and Jones live at number 3 and 5 Main Street respectively. Condition 1 refers.

Description of events - Normal description of events detailing crime incidents and initial enquiries.

Medical evidence - If appropriate, link to IL conditions – ‘witness Smith sustained a fracture to their lower left mandible which required the insertion of a titanium plate by witness Mr Black, Consultant Max Facial surgeon, SGH, who has advised that no witness statement can be obtained from witness Smith until at least 10 days hence - Condition 2’.

Police Interview / Text of Admissions – Salient points of interview and any comments.

Analysis of Evidence / ID of accused – Evidence known at that time.

Further Enquiry - Enquiry officer has commenced interviewing main adult witnesses and it is hoped that this will be concluded by (insert date). Arrangements have been made to conduct a joint Police and SW interview of witness Jill Smith at Robertson Street SW on Monday (insert date).

It is the intention of the reporting officer when all witnesses have been interviewed to arrest the suspect and interview him with regards to all additional evidence obtained.

Where any of the initial conditions have already been concluded, details of these should be recorded here.

Remarks - As normal.

List of Associated Legislation

- Criminal Justice (Scotland) Act 2016
- Police and Fire Reform (Scotland) Act 2012;
- Criminal Procedure (Scotland) Act 1995;
- Criminal Procedure (Legal Assistance, Detention and Appeals) (Scotland) Act 2010
- Criminal Justice and Public Order Act 1994
- Prisons and Young Offenders Institutions (Scotland) Rules 2006;
- Double Jeopardy (Scotland) Act 2011;
- Crime (International Co-operation) (Act) 2003
- Regulation of Investigatory Powers (Scotland) Act 2000
- Misuse of Drugs Act 1971
- Civic Government (Scotland) Act 1982
- Police and Criminal Evidence Act 1984
- Investigatory Powers Act 2016
- The Police and Criminal Evidence (Northern Ireland) Order 1989

List of Associated Reference Documents

Policy

- Crime Investigation Policy

Standard Operating Procedures

- Appropriate Adult SOP
- Case Reporting SOP
- Community Advisors SOP
- Community Impact Assessment SOP
- Complaints about the Police SOP
- Criminal Justice (Scotland) Act 2016 (Arrest Process) SOP
- Crime Recording SOP
- Digitally Stored Evidence SOP
- Domestic Abuse SOP
- Forensic Science Gateway SOP
- Fraud and Economic Crime SOP
- Honour Based Violence, Forced Marriage and Female Genital Mutilation SOP
- Indecent Images of Children on Digital Media SOP
- Internet Research and Investigation SOP
- Interpreting and Translating Services SOP
- Mental Health and Place of Safety SOP
- PND SOP
- Proceeds of Crime SOP
- Record Retention SOP
- Sexual Crime Investigation SOP
- Stalking and Harassment SOP
- Warrants SOP

Reference Documents

- ACPOS and COPFS Joint Guidance on Search Warrants
- ACPOS Guidance on Family Liaison
- CHS User Guide
- Cybercrime First Responders Guide
- Diversity Booklet – A Practical Guide
- Lord Advocates’ Guidelines for Solicitor Access for Interviewees who require an Appropriate Adult
- Lord Advocate Guidelines on Reporting to Procurators Fiscal by Offences Alleged to have been Committed by Children
- Major Incident Room Standardised Administrative Procedures (MIRSAP)
- Mobile Phone Crime Toolkit
- Murder Investigation Manual(MIM)
- Police Service of Scotland – Solicitor Access Guidance Document
- Protocol between Police Scotland and COPFS Guidance for the Investigation and Prosecution of Serious Crime
- Seizure And Forensic Examination Of Mobile Telephones
- SMART (MIR) Manual
- SCAS Criteria
- SCAS Criteria Definitions
- The PNC User Manual

List of Associated Forms

Form 048-005	Investigative Liberation – Application Form
Form 048-006	Investigative Liberation – Not Officially Accused (Copy)
Form 048-007	Investigative Liberation – Notification of Increased Conditions
Form 048-008	Investigative Liberation – Update of Conditions on CHS
Form 048-009	Investigative Liberation – Changes to Condition(s)
Form 048-011	Investigative Liberation – Application for Authority to Conduct Post Charge Questioning
Form 048-011(A)	Form 66.4-A Application for Authorisation to Question a Person Officially Accused
Form 048-011(B)	Form 64.4-B Authorisation under Section 35 of the Criminal Justice (Scotland) Act 2016
Form 048-012(A)	Investigative Interview – Voluntary Statement – Aide Memoire
Form 048-012(B)	Investigative Interview – Recording of Interviews – Aide Memoire
Form 048-012(C)	Investigative Interview – Remote Monitoring Recording of Interviews – Aide Memoire
Form 045-019	Cross Border Powers – Notification of Planned Operation
Form 045-020	Cross Border Powers – Notification of Result of Planned Operation
Form 045-028	Cross Border Guidance for Custody Officers in England, Wales and Northern Ireland in Relation to Scottish Procedures
Form 051-032	Police Interview – Rights of Suspects (PIRoS)
Form 051-035	Pre Interview – Review of Rights Aide Memoire
Form 084-013	International Letter of Request (ILOR) Template
Form 130-008	SCAS Request Form

Appendix 'N'



