

Response from the Association of Chief Police Officers in Scotland (ACPOS), dated 7 December 2012

Comment on the observations and recommendations made within the report are provided at the end of this response, however prior to reaching these comments I would like to take an opportunity to consider the wider contents of the report.

Over recent years collision investigation has evolved significantly, not only with updates to the Road Death Investigation Manual (RDIM – that very much mirrors the Murder Manual, highlighting the level of investigation undertaken), but also with the overall level of professionalism and expertise utilised during such investigations.

Technology has also assisted in this evolution providing accurate scene reconstructions. Fatal collisions are dealt with like any other serious crime with numerous experts (Collision Investigators/Vehicle Examiners) involved who build up experience, have specialised training, and national guidance available all of which leads to results that are of a standard that withstands the scrutiny of the highest courts in the country.

In Scotland the police have primacy for the investigation of road deaths and the information that is available to the police is compiled in various formats including

- police reports (whether criminal or sudden death),
- crash investigation reports,
- sketches, and
- photographs.

I note the report has found that in Scotland, Forces did not release a Police Report on receipt of a Freedom of Information (FOI) request (page 1 para 3). To establish what the level of requests for such information has been in Scotland, a brief scoping exercise was undertaken amongst the eight Scottish Forces. This revealed in the last three years eight FOI requests have been received across all of the Forces. Each have to be dealt with on a case by case basis, some were refused and at least one was referred to a less formal approach (contact with Reporting Officer/SIO).

Given this relatively low number, in comparison to the number of victims in the same period, I would ask whether this is a measure of success of the current processes, namely liaison with bereaved families by Family Liaison Officers (FLO's), reporting officers, Senior Investigating Officer (SIO) and the Procurator Fiscal (PF)?

What the report does not highlight and that would be helpful in informing discussion on the subject is what percentage of families would wish access to the information available (as listed above), in addition to the information that is already provided by the SIO and PF etc during the ongoing liaison with the families?

The research provides that some of the other countries scoped have various investigative bodies (Norway/Sweden/Greece/Finland). It is noteworthy that in Scotland the police investigation involves multi-agency interaction (VOSA/HSE/Local Authority etc) and relevant liaison takes place, with information sharing between the agencies, therefore is this so far removed from examples provided in the report from

other countries scoped? A key question in respect of the collision investigation is the quality and thoroughness of the investigation and it would have been helpful to have access to reports produced by these countries for comparison purposes to our own.

The report perceives a conflict of interest in carrying out investigation that fulfils both the judicial and safety role and it would be helpful to have further explanation on why this is considered a perceived conflict (page 24, last para)? Road safety is highlighted as a policing priority in the majority of Scottish Forces and the police will always have access to the 'best evidence' available during any investigation therefore should this not be considered a strength against an independent investigation that would lack various legal powers and authority?

It is worthy to note that the report has taken some information from reports that are dated 1994 and 1997 (Victim Support report and European Federation of Road Traffic Victims, Geneva report). As mentioned previously the level of investigation, professionalism and common standards approach has evolved significantly since the mid/late Nineties and I can report an example from my own Force whereby through liaison with the bereaved family, PF and SIO, information has been provided to a bereaved family. I suspect that this will not be an isolated occurrence however I am not in possession of further evidence to support such a claim.

The strengths of the process within Scotland can not be underestimated (and the report does highlight certain good practice – page 28, 1st para) but I would strongly argue that Scottish Forces are focussed on a victim centred approach compared to others, in particular it is highlighted in one specific country that a death message may be passed by telephone.

The information provided in the report could be interpreted that other countries are perhaps not too dissimilar to Scotland in respect of basic information being provided in the form of an Insurance report, which is accessible to applicants, but the release of investigative and sensitive data is at the discretion of prosecutors, a position that again has strong similarities to Scotland.

In cases whereby the PF grants permission to bereaved families to access information then there is clearly no requirement for any subsequent FOI request, as the information will be provided.

In respect of whether best practice has been recognised – without comparison of report detail (into investigations) there is nothing to suggest our current police investigations are not best practice. As previously stated, these investigations have the support of police powers that can access/secure best evidence, therefore is this not best practice?

In conclusion, I agree that an FOI request is not an appropriate method for a bereaved family to have to apply for information, but would argue that it should not have to come to this given the current processes in place. Evidence from my own Force and others is that families are provided information through established processes and very few, as requests in the last 3 years suggest, are left to adopt this course of action.

Finally, whilst the report details that some other countries carry out safety investigations, the report does not detail the work that Local Authorities and Trunk Road Operating Companies carry out in an effort to reduce road crash casualties, from information obtained during fatal and other collision investigations.

In specific response to the observations and recommendations contained within the Executive Summary, I would make the following comment;

Observations

1. Victims are an important component in any investigation carried out by the police and processes are in place, and in the main, consistently applied. The RDIM provides guidance in this regard (RDIM Section 10 – Family Liaison Strategy). For any legal right to have access to information then this would require the introduction of legislation.
2. The observations in respect of this point are that in Scotland there appears to have been very few applications made to Scottish Forces (seven in three years) for information of this nature via FOI. Applications via FOI for more recent cases are likely to be refused given that the investigation may still be ongoing, however in older cases it is unlikely that FOI's can/will be refused.
3. As per point 1 in respect that any legal right to have access to information then this would require the introduction of legislation.
4. The police carry out investigations as per the RDIM. Separate to this, specific information is provided to either the Local Authority or Trunk Road Operating Company. Without access to reports and information produced by the mentioned independent bodies then this point cannot be commented upon from a comparison perspective, and in addition it would be helpful to understand what defines best practice in this regard.
5. It would be helpful to understand what evidence is available to suggest that RDIM is not followed in a standard fashion across Scotland. If there is evidence to support this observation then the move to a single Force, and in particular a single Road Policing Division for Scotland, will ensure that consistency is applied across the country in respect of the RDIM.
6. This is Government policy.

Recommendations

1. Multi-agency site surveys at locations of fatal (and other) collisions are regularly undertaken.
2. Whilst no legal right exists, processes are in place through liaison with FLO, SIO and PF that information is provided that would hopefully satisfy a bereaved families search for information.

3. Any changes in respect of providing information to bereaved families will be influenced by legislation changes.
4. This is Government policy.