



Road death investigation guide for bereaved families

February 2011

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RoadPeace: the national charity for road crash victims

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February 2011

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Abbreviations and acronyms

ACPO	Association for Chief Police Officers
ANPR	Automatic Number Plate Recognition
CCTV	Closed Circuit Television
CPS	Crown Prosecution Service
DfT	Department for Transport
FIT	Field Impairment Test
FLO	Family Liaison Officer
ITAI	Institute of Traffic Accident Investigators
IPCC	Independent Police Complaints Commission
MOJ	Ministry of Justice
RDIM	Road Death Investigation Manual

1 Introduction

1.1 Purpose and Overview

If you are reading this guide through personal need, then please accept our sincere condolences. This guide is based on our experiences of similar bereavements through road crashes and has been written to support you through the immediate post-crash stage and to help you cope at this terrible time.

RoadPeace was established to ensure families receive the emotional and practical support they need. This includes providing information on what happens following a crash, including explanation of the procedures involved in collision investigation and criminal prosecution.

Bereaved families are given a booklet funded by the Ministry of Justice but this is more geared towards culpable crashes where there is criminal prosecution and civil compensation involved. It has relatively little information on the collision investigation.

The importance of a proper road death investigation cannot be overstated. It is crucial to fair criminal prosecutions and civil compensation settlements. It is also essential for the bereaved to know that the unnatural death of their loved one is treated with the scrutiny and priority it deserves. Even where there is no criminal charge, there may be lessons that can be learned that could help prevent future deaths.

A minority of fatal crashes result in a driver being prosecuted, This Guide is written from the perspective that the

driver has survived the crash and that a criminal prosecution is possible.

This guide is based on the experience of our members and the calls to our helpline over the past 17 years. Any repetition is intentional as we believe key points are worth reinforcing. Taking on board new and complex information at a time of great personal stress is inevitably difficult.

RoadPeace is happy to provide clarification and guidance where possible.

We can be contacted on our Helpline (0845 4500 355) or our office (020 7733 1603). Both are open Monday – Friday 9am to 5pm. Our helpline is staffed by trained volunteers who have personal experience of bereavement or injury through road crashes. They will be able to provide empathy and emotional support. You can call as often and for as long as you choose, and you do not need to be a member of RoadPeace to receive our help.

1.2 Structure of this guide

We have tried to make this guide as clear as possible and organised it as shown below.

Chapter 2: Road death investigation-an overview explains the recommended national police policy under the latest Road Death Investigation Manual, including the basic composition of a fatal collision investigation team, and key documents.

Chapter 3: At-scene investigation summarises what evidence is

collected at the crash site in the first hours and days after the crash.

Chapter 4: Vehicle examination includes an outline of the inspection into the condition of the vehicle, which sees if any defects caused the crash or contributed to the severity of the casualties.

Chapter 5: Site investigation reviews the information collected at the crash location, including its collision history, maintenance record and any local community concerns about the site.

Chapter 6: Witnesses explains the steps involved in identifying and contacting witnesses and collecting formal statements. It also discusses a new approach to witness statements being piloted.

Chapter 7: Driver investigation explains the questioning of the driver which will normally occur after all other investigations have been completed, including getting statements from other witnesses.

Chapter 8: Criminal charges summarises the possible causing death by driving criminal charges available, including the most recent conviction statistics showing how often these charges are used. It also clarifies the role of the police in the charging decision.

Chapter 9: Rights and role of bereaved families clarifies what the family is entitled to, what is considered good practice, and also the possible financial costs involved.

Chapter 10: Ensuring lessons are learned discusses how the findings of the investigation can be used to reduce the risk to others and/or

reduce any additional suffering of the bereaved.

Chapter 10: Summary reviews the key points from each chapter. These are based on the summaries provided at the end of each chapter.

References are listed at the back of this guide and a checklist for bereaved families is provided in Appendix A.

For more information on criminal court proceedings and sentencing, please contact RoadPeace for our guides on the Charging Decision and Going to Court.

Inquests are also covered in a separate RoadPeace information guide.

Chapter summary: Introduction

- This guide is to help families understand what is involved in a road death investigation.
- RoadPeace has a national helpline and can provide you with emotional support or practical information. We can put you in contact with another person who has been bereaved by a road crash.
- Additional guides are available, including on the charging decision, criminal prosecution and inquests.

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2 Road death investigation – an overview

This chapter reviews the current recommended guidance on road death investigation and explains the composition of the investigation team.

2.1 Road Death Investigation Manual

In 2001, the Association of Chief Police Officers (ACPO) published the first Road Death Investigation Manual (RDIM) intended to promote good practice in fatal collision investigations.

It was most recently updated in 2007 and co-produced by the National Policing Improvement Agency (NPIA). Key sections are quoted in this Guide. Copies of the RDIM are available from the ACPO website.).

The police are recommended, but not required, by ACPO to follow this manual. There are 43 independent police services in England and Wales. Each is able to determine how much effort, priority and resources it invests in its investigations, including those involving road deaths. Investigation classification

All road deaths to be approached as unlawful killings

This manual adheres to the principle that all fatal collisions should be investigated as 'unlawful killings' until the contrary is proved...Whatever the initial circumstances appear to be, all fatal collisions must be investigated to the highest standard.

(ACPO and NPIA, 2007)

The RDIM defines four basic classifications of fatal collision investigation.

Table 2.1 RDIM collision investigation classification

Category	Factors
A *	One or more of the drivers has failed to stop, or left the scene, or other factors increase the complexity of the case.
B	All drivers can be identified and at least one has survived.
C	Driver is the only fatality and no criminal charge possible. Inquest only.
D	Applies to those few cases where the post mortem concludes that the driver died of a natural cause, and where no one else was killed. These deaths do not require an inquest.

While fatal crashes may be categorised according to perceived levels of culpability, it is important to appreciate that the RDIM does not recommend approaching any fatal crash as an accident.

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2.2 Policy file

According to the RDIM, the police are to keep a policy file in which all strategic policy decisions on the investigation are recorded. The policy file is the definitive record for reference with any court query or complaints proceedings. In most cases, the policy file can be read by all members of the investigation team.

2.3 Investigation team

The road death investigation team includes five key roles. In some investigations, an individual can cover more than one role. These roles are the:

Senior Investigating Officer (SIO)

who is the decision maker and has overall responsibility for the crash investigation. These include areas such as finance and resources, scene management, media, policy decisions, coroner and Crown Prosecution Service (CPS) liaison, charges, as well as any sensitive issues.

SIOs are expected to attend the crash scene. The role is not department or rank specific and the appointment of the SIO depends upon the category of the investigation (See Table 2.1). The SIO may be changed if the category of the investigation is re-classified.

A national standard of competences for SIOs is being developed and is to be accompanied by a training package.

Collision investigator is responsible for the collision

reconstruction, including determining the speeds involved, and preparing the written collision investigation report, which will be passed to the CPS and/or coroner. They will be the expert witness for the court and so are not allowed to have contact with the family until after any criminal court case is over or it has been decided that there will not be a criminal charge.

Vehicle examiner who determines the condition of the vehicle before the collision and whether it contributed to the collision.

Investigator/Enquiry officer who is responsible for taking witness statements and should have had special training for this role.

Family Liaison Officer (FLO) who is the main point of contact for the family and will inform them of the progress of the investigation. However some police services only allocate FLOs for certain types of road deaths. Where an FLO has not been assigned, the SIO is expected to act as the FLO.

The Road Death Investigation Manual highlighted the following roles of the FLO:

- Passing appropriate information regarding the enquiry to the family (with the agreement of the SIO in order to avoid compromising the enquiry).
- Organising the viewing, identification and release of the body.
- Ensuring the return of property is carried out tactfully, sensitively

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and in accordance with the family's wishes.

- Informing the family of suitable support agencies and sources of information (ACPO and NPIA, 2007).

All FLOs have volunteered for this role and they will have received special training. FLOs keep a log of all contact with the bereaved family. RoadPeace encourages bereaved families to do the same. This is not a time to rely on memory.

Do not be afraid to ask questions and appear “pushy” at this point. Different families will have different information needs and FLOs may wait to be asked before offering information which may be upsetting to the family. They may also not want to contact families just to tell them that there is no news, although to many, no news is still news.

Families should inform the FLO how often they want to be kept updated and by what mode (phone, email, etc.). Further information on the FLO is provided in the next chapter.

Chapter summary: Road death investigation

- The ACPO Road Death Investigation Manual (RDIM) promotes good practice but it is advisory. Each police force is independent and determines the resources allocated to road death investigation.
- The Senior Investigation Officer is in charge of all collision investigation related decisions.
- The police will develop an investigation plan and record all key decisions in a policy file.
- The Family Liaison Officer is part of the investigation team. Their role is to keep the family informed. They also keep a log and report back on anything they learn from the family.
- Bereaved families may also find it useful to keep a written record of the investigation progress and a log of the contacts with the police, coroner's officer, solicitors, CPS, etc.
- Each family has individual needs and expectations. Some want lots of information, others a summary and others none at all. There is no right and wrong and the police may wait to be asked by the family before offering information.

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3 At-scene investigation

The first priority for the police is to secure the safety of the scene, to prevent any further people from being hurt. The police will then tend to the victims and provide first aid. Only after the site is safe and victims stabilised, will the police begin to review and collect the evidence.

3.1 Site evidence

The police will record key information such as the vehicle locations and skidmarks. They will prepare a plan diagramming the crash from the physical evidence. The plan is 'post collision' and shows the final outcome.

Photos will be taken, either by a specialist police photographer or by the collision investigator. If the crash occurred during the evening, daylight photos should be taken the next day. Photos should be taken of any damage to vehicles and street furniture.

Roads are routinely closed for collision investigation purposes and it is important that photographs are taken as soon as possible. Not all photographs will need to be shown at the inquest and families may want to ask the police to show them all the photographs taken at the scene. Police should also check public and private CCTV cameras.

They may also make a video recording. The police should also check any traffic signals and streetlights near the scene to check

that they were working correctly at the time of the collision.

3.2 Vehicles

At the scene, the police will examine and note the position of the control systems within the vehicles, i.e. light switches, gears, and the condition of the seat belts and airbags. The police will check that the vehicles involved have up-to-date documentation, including their MOTs, i.e. motor operation test.

Mirrors will be checked to see if they are correctly adjusted. This should be a priority with lorries for their well-documented problems with blind spots.

With lorries, the police will check if the tachograph has been used. A tachograph is a machine which measures vehicle speeds and records when the vehicle was being driven, so that driving hours and behaviour can be monitored. It is a criminal offence to have a tachograph that is not working.

In a few cases, such as where the driver has left the scene, the police can seal the vehicle and remove it for forensic analysis where more tests will be done.

The presence of an event data recorder (black box) will be checked later by the vehicle examiner. Black boxes may be found in some newer cars and police vehicles. They can provide information on key factors as the braking, travelling and impact

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Vehicle inspection

speed, as well as whether the lights or turn indicators were in use.

Please contact RoadPeace if you would like a briefing sheet on black boxes.

3.3 Drivers

At the scene, drivers will only be asked for their contact details and a brief statement. They may well be in shock and should be interviewed in detail later, normally after all witnesses have been interviewed. If there is evidence of a criminal offence the driver may also be arrested at the scene. This will depend on the type of offence and other factors.

If a driver is arrested, their fingerprints and DNA will be taken. This will allow their identity to be confirmed.

Drink driving. Since 1996, it has been ACPO policy to breathtest every driver who is involved in a fatal collision. If drivers refuse, they may be charged with an offence that carries the same penalties as if they had tested positive for drink driving. If a driver is unconscious, a blood sample may be taken at the hospital, but it can only be analysed for alcohol after the driver gives permission. However drivers can be charged if they do not give permission for the hospital sample to be tested.

The breathtest conducted by police at the roadside is a screening test that will indicate by colour if a driver is below or over the drink drive limit. If the driver tests positive for drink

driving, then an evidential test will be conducted.

Roadside evidential breathalysers have been bought by the Home Office for all police forces. These record the precise breath alcohol reading and can provide a printout. If these are not available, drivers need to be taken to a police station for an evidential test to be conducted which will give the exact recording. As with speeding, there is a technical tolerance allowed and drink drivers may not be prosecuted if the evidential test shows them to be slightly over the limit (approximately 15%).

One in four car drivers killed during the day is under the influence of alcohol, although this rises to one of every two car drivers killed at night.

(DfT, 2010)

All fatalities, including drivers killed in a crash, will have their blood tested for alcohol or drugs as part of the post mortem procedures. The findings will be reported in the post mortem report and presented at the inquest and will then be in the public domain.

Drug driving Very few drivers in fatal crashes are tested for drug impairment at present. According to the Department for Transport (DfT) Contributory Factors Analysis, only 46 fatal crashes in 2009 were reported by the police to involve a driver under the influence of drugs (DfT, 2010).

Drivers must be brought to the police station or a hospital for a blood test to be conducted to determine drug

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usage. The RDIM recommends that if the driver is suspected of being impaired by drug use and a police officer has been trained in Drug Recognition and how to conduct Fitness Impairment Testing (FIT), then the driver should be FIT tested at the roadside, but this is only for screening purposes and a blood test will need to be done.

Driving licence. Drivers are not required to carry their driving licence with them. The police can check on the police national computer to see if the driver has a valid driving license. Drivers may be asked to bring their license to a police station. Police will check to see if the licence is valid and covers the type of vehicle being driven at the time of the crash.

Driving bans. Drivers in fatal crashes who test positive for drink or drug driving do not automatically have their licence taken away. It is only after they have been found guilty that their licences are confiscated.

An interim driving ban can be imposed as a bail condition but this requires the court to be convinced that the driver is at risk of re-offending, so is rarely used. The bail condition is usually worded to state that they are not allowed to ride in the front seat, so as to deter drivers from pretending to be a front seat passenger.

Motor insurance. The Motor Insurers Information Database (MIID) has details of all motor insurance policies. With the MIID, the police are able to check the vehicle registration number and

trace any motor insurance policy to see if the driver was insured to drive that specific vehicle.

3.4 Witnesses

As with the driver, the Police only conduct initial questioning of witnesses at the crash scene and this does not constitute a formal statement. They will record the contact details of key witnesses and include a short statement by each witness in their collision report form.

Any initial questioning should be framed to elicit a brief account of what has been witnessed; a more detailed account should include where and when the collision took place and who was involved or otherwise present.

(ACPO and NPIA 2007)

Witnesses identified at the scene will be given a reference number and details of the officer investigating and a contact number. Formal statements will be taken later and these can be conducted in person or sent by post, depending on the circumstances.

Witness Statement pilot project.

ACPO has approved a pilot project being undertaken which uses a different approach to witness statements. Witnesses are asked to complete a questionnaire as soon as possible, preferably at scene, and not wait to be contacted by the police for a face to face interview days, if not weeks, later. Memory is known to worsen with time and so the sooner witness statements can be taken, the better. This new Self-Administered Interview (SAI) has

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been found to help increase and preserve memory recall.

3.5 'Hit and run' collisions

Where a driver has failed to stop, the police can respond by:

- Circulating a description of the offender and vehicle (if known)
- Ensuring a suitable marker is placed on the vehicle's Police National Computer record as soon as possible
- Making enquiries with the registered keeper
- Retrospectively searching Automatic Number Plate Recognition (ANPR) logs in the relevant area
- Setting up road checks
- Checking abandoned or parked vehicles
- Identifying the route taken
- Recovery of CCTV footage on access and exit routes to help identify suspect(s) and witnesses
- Requesting an appeal be included on the BBC's Crime Watch programme (but relatively few requests can be granted)

Chapter summary: At-scene investigation

You may be informed or ask about the key points:

- Where the point of impact occurred and how they determined it.
- What the estimated approach and impact vehicle speeds were estimated and how these were calculated.
- What tests, including eyesight, breathalyser and drug impairment, were done on the driver(s) at the crash site.
- What effort has been made to locate witnesses and if there is anything the family can do to assist.
- How the local traffic management system (traffic signals, signs, lights) was checked to see if it contributed to the crash.

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4 Vehicle inspection

The vehicle examiner will inspect all vehicles involved in the collision to see if they contributed to the crash or the death. Vehicle defects are believed to contribute to relatively few crashes, but they should always be checked.

4.1 Key vehicle checks

Key checks include:

- **Tyres** The tread and the inflation level of all tyres should be checked to see if they meet the legal tread depth required and the recommended manufacturer's tyre pressure.
- **Mirrors** The police should check if mirrors were properly positioned for the driver's height. Drivers, especially lorry drivers, may try to claim that the crash was due to a 'blind spot', but these are very rare if mirrors are positioned properly.
- **Lights** Front and rear lights should also have been checked at the site, but at times they may be damaged. Vehicle examiners are often able to arrange forensic test to see if the light was on when the crash occurred. The vehicle examiner's conclusions should be seen as more reliable than a witness testimony.
- **Seatbelts** These will be checked to see that they are not broken and have the right amount of tension. It can also be determined if they were in use at the time of the collision.
- **Metal strength** Examiners will look for signs of metal failure, especially with older vehicles.
- **Brakes** Brakes will be checked to see if they are worn or defective.
- **Steering** The steering will be checked in light of the direction the vehicle took.
- **Airbags** Vehicle examiners will check that airbags deployed properly, after the crash, and if they contributed to the injuries.
- **Tachograph** Digital tachographs are replacing manual tachograph charts in commercial vehicles. Vehicle examiners can download the digital information which is retained on the tachograph system for 12 months. Drivers using manual records are supposed to keep records for the past 28 days.
- **Black boxes.** The police will also check whether the vehicle has an event data recorder (black box), which is a standard feature in some new cars and records key factors such as speed, braking, lights, turn indicators, etc.

Chapter summary: Vehicle inspection

You may be informed:

- What will be done to determine if the vehicle condition contributed to the crash or the victim's death.
- If the tyres, mirrors, lights, seatbelts, vehicle frame, brakes, steering, or airbags were defective.

5 Site investigation

The collision investigator will contact the local authority for information on the site. Families can also ask for this information from local authorities. Collision data is not classified information.

5.1 Speed estimation

Speed will almost always be a key factor, if not in the causation of the crash, then in the causation of the death. Speeding refers to both vehicle speed exceeding the road's speed limit and also inappropriate speed for the circumstances. As shown below, the Highway Code states that the speed limit is not always appropriate and motorists need to reduce speed if there are vulnerable road users.

The speed limit is the absolute maximum and does not mean it is safe to drive at that speed irrespective of conditions. Driving at speeds too fast for the road and traffic conditions is dangerous. You should always reduce your speed when.....sharing the road with pedestrians, cyclists and horse riders, particularly children, and motorcyclists.
DfT (2007), Highway Code

Families may want to know how the speed estimate was calculated, by whom, and the reliability of the estimate. Speeds can be estimated from skid marks, the distance a victim has been 'thrown', witness statements and black box recorders (though the latter are very rare). Skid tests will also show if a road's smoothness, and therefore lack of tyre grip, contributed to the crash.

Families are advised to ask for clarification on how estimated speed will be presented; as a range,

minimum speed estimated or the best estimate. See our separate RoadPeace information sheet on *Estimating Speed in Road Crashes* for more information.

CCTV cameras. Both local authority and private CCTV cameras should be checked. This should be done as quickly as possible and should also include examination of any approach and exit roads to the collision site, especially if it was a 'hit and run' collision.

5.2 Local authority

Collision history. The police will inquire about the collision history of the crash site. This will usually mean the number and severity of crashes within the last three years and the type of crashes involved, e.g. involving cyclists or pedestrians, head-on or right angle, skidding related.

Speeding and/or community concern. The police may also enquire about local concerns about speeding or dangerous driving. The road may have been known locally as a place where a crash was '*waiting to happen*'.

Maintenance record. The police may also enquire about the maintenance record of both the road and any traffic management equipment (signals) and the last time the road surface was re-laid.

Some local authorities send a highway engineer out to inspect the scene of a fatal crash to check that there were no obvious problems with the site before

the crash or after the crash, as fences and signs may need to be repaired.

Traffic signals and junction layout.

Any traffic signals at the crash site should be checked to see that they were working and properly aligned. Signal timings should also be checked to confirm that adequate crossing time for pedestrians was allowed. The layout of the junction, including road markings, will be assessed to see if they contributed to the crash.

Chapter summary: Site investigation

You may be informed of the information collected on the:

- Number and type of collisions at the crash site in recent years.
- Maintenance record of the site.
- Any local concerns about speeding, visibility, etc.
- Any traffic signal, road layout or engineering issues.
- Bereaved families may also ask the local authority about the site as this is not classified information.

6 Witnesses

The success of any fatal collision investigation usually depends on the accuracy and detail of the material obtained from witnesses.

(ACPO and NPIA, 2007)

Witnesses can either be independent or be known to one of the parties involved. They may have seen the actual collision, or heard or seen what happened after or before the crash.

Witnesses may be traumatised by what they have seen and this can affect their memory. It is also very difficult to estimate speed accurately and judgements may be affected by the speeds of other vehicles or by engine sounds.

6.1 Witness boards and appeals

The police may put up witness boards at the scene of the crash, asking for any witnesses to contact them. These should be left in place for a minimum of two weeks. Witnesses can also be identified by the following means:

- Examination of Automatic Number Plate Recognition data
 - Interviews with other witnesses
 - Viewing CCTV
 - Conducting house to house enquiries
 - Road checks
 - Suspect interviews
 - Making enquiries at significant locations near the scene.
- (ACPO and NPIA, 2007)

Bereaved families can also offer to help through an appeal with the local media or distribution of leaflets at the scene. Family appeals can receive a better response with people responding to the personal approach.

6.2 Interviews

Formal interviews should be conducted according to the standards laid down by the Police and Criminal Evidence (PACE) Act of 1984.

Some witnesses, especially those who did not see the collision, may be asked to provide a witness statement by post.

Witnesses are usually allowed to keep a copy of their statement as months may pass until the court trial. If a copy has not been provided, then the witnesses should be allowed to read their statements before testifying in any court, including the Coroners' court.

After a witness has provided a statement, they may request updates from the police at key times, such as when a:

- suspect is arrested
- decision is made to take no further action or use a non court based disposal of a suspect (such as a caution or reprimand)
- suspect is charged
- suspect has been bailed and the, relevant bail conditions and first court hearings
- hearing date for any defendant remanded in custody
- decision has been made by the CPS for no further action.
- a file has been submitted to the Coroner.

(ACPO and NPIA, 2007)

Chapter summary: Witnesses

You may be informed:

- How witnesses have been identified.
- Who is to interview witnesses.
- If you can help with a media appeal for information or witnesses.

7 Driver investigations

This section explains the basic checks conducted by the police on the drivers involved.

7.1 Eyesight.

Police should check the eyesight of the driver as soon as possible by having the driver read a license number plate. An eyesight check may be conducted in daylight even if the crash occurred in the evening. They do not have the power to order a driver to have their eyesight tested by an optician.

7.2 Driving record.

The driver's driving record will be checked by the police to see if there have been any previous violations or convictions. This information cannot be used until the time of sentencing, when it may be considered as an aggravating factor if a pattern of violation can be shown.

7.3 Mobile phone use

The police are not required to check mobile phones. They may ask drivers to volunteer their phones to be checked for use before or around the time of the collision. They check this if there is a reason to believe that the driver was on the phone at the time, eg from a witness statement or inexplicable behaviour by the driver. They can also seek legal permission to access the mobile phone records.

7.4 Fatigue

Fatigue is difficult to prove and used to be considered a mitigating factor. This is no longer the case as there is now increased recognition that it is a

condition that comes on gradually and that drivers have time to respond to the warning signs and avoid endangering others. Sleep apnoea is a medical condition known to be a problem with lorry drivers.

7.5 Health

Drivers will be asked about any medical conditions. It is rare for medical records to be requested or for doctors to be contacted to confirm the state of health of the driver. This will usually only happen if the driver claims that a medical condition, e.g. diabetes, epilepsy, contributed to the crash.

7.6 Motor vehicle insurance

If the collision involved an uninsured driver, this will affect your compensation process, as the Motor Insurers Bureau (MIB) will become involved. This is an independent organisation established by law to compensate for injuries and damage caused by uninsured or unidentified drivers (hit and run).

7.7 Interview

A driver is interviewed if they are suspected of causing the crash. The Police and Criminal Evidence (PACE) legislation restricts the number of times a suspect can be interviewed and subsequent interviews are allowed only if new evidence comes to light or to clear up any confusion. Hence, they wait to interview the driver last, after other witnesses, to make sure they have all the evidence available to them. This is hard for many families to understand as

months can pass before the driver is interviewed, but it is required by police procedures.

Chapter summary: Driver investigation

You may be informed:

- The results of any drink or drug test conducted.
- Whether checks on mobile phone records and eyesight were done.
- Insurance details.
- Why the driver(s) needs to be interviewed last.

8 Criminal charge

8.1 Introduction

This section explains the current charges available for the CPS to prosecute drivers, including the two new charges introduced in August 2008. It also clarifies the role of the police and CPS in charging.

There are four basic causing death by driving charges available. These include the following:

Causing death by dangerous driving

This charge must be heard in the Crown Court and carries a maximum prison sentence of 14 years. In 2009, there were 287 drivers convicted of it with over 90% receiving a custodial sentence.

Causing death by careless driving whilst under the influence of drink and drugs

This charge must be heard in the Crown Court and also carries a maximum prison sentence of 14 years. In 2009, there were 35 drivers convicted of this charge with almost all receiving a custodial sentence.

Causing death by Careless or Inconsiderate Driving

This was introduced in August 2008 and can be tried in either the Crown Court or the Magistrates Court. The minimum sentence is a community order and one year disqualification with a maximum prison sentence of five years.

In 2009, 93 drivers were convicted of this charge, 52 at the Magistrates and 41 at the Crown Court. No driver sentenced at the Magistrates Court received a custodial sentence but three were imprisoned by the Crown Court.

Causing death whilst driving unlicensed, disqualified, or uninsured

This charge was also introduced in 2008 and differs from the other charges in that it does not involve a moving violation.

The minimum sentence is a community order and a disqualification period of at least one year. The maximum custodial sentence is two years.

In 2009, there were 32 drivers convicted of this charge with half convicted at the Magistrates Court and half at the Crown Court.

Only six drivers were sent to prison or a Youth Offender's Institute.

8.2 Charging standards

A common question is whether driving is bad enough to qualify as dangerous or just careless. The CPS have given the following examples of driving which qualifies as dangerous, careless or inconsiderate.

Dangerous driving	Careless driving	Inconsiderate driving
Racing or competitive driving;	Overtaking on the inside;	Flashing of lights to force other drivers in front to give way;
Speed, which is highly inappropriate for the prevailing road or traffic conditions;	Driving inappropriately close to another vehicle;	Misuse of any lane to avoid queuing or gain some other advantage over other drivers;
Aggressive driving, such as sudden lane changes, cutting into a line of vehicles, or driving much too close to a vehicle;	Inadvertently driving through a red light;	Unnecessarily remaining in an overtaking lane;
Disregard of traffic lights and other road signs, which, on an objective analysis, would appear to be deliberate;	Emerging from a side road into the path of another vehicle;	Unnecessarily slow driving or braking without good cause;
Disregard of warnings from fellow passengers;	Tuning a car radio;	Driving with un-dipped headlights which dazzle oncoming drivers;
Overtaking which could not have been carried out safely;	Using a hand-held mobile phone or other hand-held electronic equipment where the driver was avoidably distracted by that use;	Driving through a puddle causing pedestrians to be splashed;
Driving a vehicle with a load which presents a danger to other road users;	Selecting and lighting a cigarette or similar where the driver was avoidably distracted by that use.	Driving a bus in such a way as to alarm passengers
Where the driver is suffering from impaired ability, such as having an arm or leg in plaster, or impaired eyesight;		Unnecessarily slow driving or braking without good cause
Driving when too tired to stay awake;		
Driving a vehicle knowing it has a dangerous		

defect;

Using a hand-held mobile phone or other hand-held electronic equipment when the driver was avoidably and dangerously distracted by that use;

Reading a newspaper/map (this was previously classified as careless);

Talking to and looking at a passenger where the driver was avoidably and dangerously distracted by that;

Selecting and lighting a cigarette, or similar, in circumstances where the driver was avoidably and dangerously distracted by that.

Source: CPS (2007),
http://www.cps.gov.uk/Publications/prosecution/pbd_policy.html

8.3 Charging decision

If a criminal charge is being considered, it will be the CPS who decides which charge it is. The police may offer a recommendation but they are not required to do so. The police do have the authority to decide that no criminal charge is appropriate and not consult the CPS. There is no mandatory requirement that the CPS be consulted or review every fatal case file. Cases referred to the CPS do not mean a criminal charge will occur. Like the police, the CPS can decide against criminal prosecution. .

For cases that are referred to the CPS, they must consider two basic factors when making a charging decision. These are:

- 1 Is there enough evidence to secure a conviction?
- 2 Is it in the public interest to prosecute?.

8.4 Meeting with family

The CPS are supposed to write to bereaved families explaining their charging decision. They may also offer a meeting to explain their decision but this does not mean they will review or reconsider it.

Victim Focus scheme Under the CPS Prosecution Policy introduced at the end of 2007, families who have been bereaved by road crashes, when the trial is being heard in a crown court, are to receive an “enhanced service”.

This involves a meeting with the CPS where they explain the procedures involved in a Crown Court hearing and answer any questions the family may have.

Please contact RoadPeace for further information on criminal prosecutions and road deaths as we have separate guides on the Charging Decision and Going to Court.

Chapter summary: Charging decision

- The police can decide no further action without needing to consult the CPS.
- The CPS consider the evidence and the public interest when making their decision whether or not to prosecute.
- The CPS are to explain the charging decision to a bereaved family.
- There are four basic causing death by driving charges. Examples of what qualifies as dangerous and careless and inconsiderate have been given by the CPS.
- Intent is irrelevant and short periods of very bad driving can qualify as dangerous.

9 Rights of bereaved families

This section summarises the legal rights of bereaved families, the Code of Practice for Victims of Crime and some recommendations by RoadPeace.

9.1 Legal rights

All bereaved families are entitled to be informed of the name, address and insurance details of the driver involved (Road Traffic Act 1988). These details may not be provided straight after the crash if there are concerns a driver may be harassed. You should know the name of the driver involved if you need to contact the CPS or courts about the case as it will be filed under the name of the driver, not the victim.

9.2 MOJ Code for Victims

In April 2006, the government published its Code for Victims of Crime which specified the services victims of crime in England and Wales could expect to receive from the police, CPS and Probation Service. Although it is not legally binding, statutory organisations were expected to adhere to it. However, it should be noted that as of early 2011, the Code was under review.

Bereaved families of road death victims are entitled to receive the services specified when a driver is expected to be charged with causing the death.

Key services relevant to those bereaved by road crashes who qualify under the Code include:

- A right to information about their crime within specified time scales,

including the right to be notified of any arrests and court cases. This is usually a five day timescale.

- A dedicated police FLO officer to be assigned to a bereaved family.
- All victims to be told about Victim Support and either referred on to them or offered their service. Victim Support assists bereaved families in crashes where a driver is being or expected to be prosecuted for causing the crash.
- Flexibility with regard to opting in or out of receiving services to ensure victims receive the level of service they want.

All police forces in England and Wales should ensure that victims of crime and their families receive information and support.

RoadPeace believes the Code for Victims should apply to all bereaved families of road crashes.

9.2.1 FLO and being kept informed

As mentioned previously, the FLO is the investigation team member responsible for keeping the bereaved family informed of the progress of the investigation. They are also expected to report back to the SIO any relevant information the family offers on the victim or the crash circumstances.

FLOs can be under much pressure as they may be assigned several families from different crashes. An FLO should not be assigned two different families from the same crash.

Families should ask who to contact if their FLO is unavailable (for example

holiday, sick leave, training) as the role of the FLO is not a full time position. The SIO should be able to be contacted, if the FLO is unavailable.

FLOs are supposed to keep a log of all contact with the family noting the dates, names with whom they spoke, reason for contact, and information exchanged. RoadPeace advises families to do the same and to request all key information is put in writing. As stated previously, this is not a time to have to rely on your memory. Families are also recommended to notify the FLO if there are any times (night-time) or days when they do would prefer not to be contacted.

Families will need to provide information for the Coroner on the victim's birth date and location, health details, including doctor's details. You may be asked about any relevant experience the victim had driving a car or riding a motorcycle or bicycle, or familiarity with the crash location. You will be asked for any information you have on the movements of the victim on the day of the crash.

The RDIM also mentions how it may be necessary for FLOs to gather as much information as possible about the victim. This process is referred to as victim lifestyle enquiries. These will focus on the associations, lifestyle and behaviour patterns relating to the victim, and may be useful for processing an investigation.

(ACPO and NPIA, 2007)

Your FLO should find out how often you would like to be updated on the investigation progress. Monthly updates are advised in the Home Office Code for Victims. The police are required notify the family within a specified time period of the arrest, interview, release or charge

of any suspects (ACPO and NPIA, 2007).

You can also state your preferred method of contact, including whether you would rather be contacted by email, phone or letter. RoadPeace encourages families to ask for all key decisions to be put in writing. We also recommend that families specifically state if they want to be informed of:

- When a vehicle is released.
- When the case file is given by the police to the CPS and any criminal charge recommended by the police.
- Any bail conditions. Families may want to ask about possible bail restrictions, including not allowing the suspect driver to continue driving before attending court, or to hand over their passport in case of foreign drivers. Ultimately it is the court that will impose any bail conditions.

The FLO will also inform the family of any charging decision made by the police or the CPS.

RoadPeace produces a separate information sheet on You and Your FLO.

9.3 Victim Personal Statement

In 2001, the CPS introduced the Victim Personal Statement scheme (VPS). Bereaved families should be given a small leaflet on this scheme by the police. If criminal charges are being considered, families will be asked by the police to make a personal statement about the impact the crime has had on them. VPS do not influence the charging decision nor the conviction decision but they can influence the sentencing decision if families want to plead for a lesser sentence.

Personal statements can be taken at any time up until sentencing. The FLO may advise on the VPS but these are to be written by the victims and neither the police nor the CPS may alter them. Families should keep a copy of their statement at the time it is written.

The VPS will be included in the case papers which are given to the defence and will be seen by the defendant. This also means that, in theory, families can be cross-examined on the content. Families cannot read the VPS out in court.

Please contact RoadPeace for our information sheet on the VPS scheme if you would like to know more about impact statements or see examples from other bereaved families.

My advice would be to get a close friend or family member to be present when the Police come for a statement, and together try not to let anyone else dictate what you are to say: state what you want to say.

Bereaved father

9.4 Emergency services and other sources of information

Fire and ambulance services may reach the scene before the police and you may want to contact them to ask them for further information, to recap their actions and what they saw and heard at the scene. You do not need police permission to request this information. The press/publicity officer can help put you in touch with the crew that attended the crash scene. Wherever possible, a police officer is supposed to accompany the victim to hospital, if an ambulance is used, to provide continuity at the hospital.

You may want to know if there have been other crashes at the same location. You can contact the relevant local or metropolitan authority to request this information. The three most recent years of data should help you get an accurate and up to date understanding of the recent collision history of the site. Collision data is not classified information and you should not have any problems obtaining this information from the road safety engineer in your local authority.

9.5 Site visit

Many police services will escort the family to the crash scene and explain the circumstances involved, to the best of their knowledge based on the existing information. If your family has not been offered this service and you are interested to visit the scene, please ask your FLO if this can be arranged.

Families may want to see the site as soon as possible, and before much is known about the circumstances of the crash. They can always ask for a return visit with the police at a later date.

Research and RoadPeace experience have shown that many families benefit from being able to understand how the crash happened. This visit also provides families with an opportunity to leave flowers or a plaque at the site in safer conditions, though local authorities may have a policy to remove these as they may be distracting to passing motorists.

9.6 Pre inquest meeting

Many police services offer to meet with the family before the inquest and review the evidence with them to avoid further shock or distress at the time. If this has not been offered, you

are entitled to ask for this meeting. You will not be allowed to keep any photographs or copies of witness statements, but you should be able to view all of them so you are better prepared for the inquest.

Please be aware that many police forces will escort families to the crash site and arrange pre inquest meetings but these services may have to be requested by families.

9.7 Costs.

The defendant gets a free copy of the police report but bereaved families and their solicitors will have to pay for their copy. The most any police should charge is photocopying costs. If the family is concerned about the cost of the police report, they should inform RoadPeace who has campaigned on this issue for many years. The family should also be informed by the FLO if there are to be any costs to pay for the storage of a vehicle involved in the crash while it is under investigation.

9.8 Media

The police should inform the family before releasing any details of the victim's identity to the press. Families should expect media interest. We

advise families to prepare a written statement for the media, as long or as short as they would like. Families should ask the FLO for media advice to ensure they do not say anything that might prejudice the investigation.

There is no honour in being killed by a driver of a vehicle, and bereaved relatives who cannot stay silent are no less dignified than those relatives who do stay silent.

Bereaved mother

9.9 Complaints

If you are dissatisfied with the way in which the investigation has been conducted or the way in which you have been kept informed, you should complain to the SIO and this should be done in writing. You should receive a response within 10 days. If you are still dissatisfied then you should write to the Chief Constable. This is the recommended procedure stated in the MOJ Code for Victims of Crime. You are advised to copy both of these letters to your MP and RoadPeace.

Some families contact the Independent Police Complaints Commission (IPCC) but the IPCC handles appeals about complaints and not the initial complaints.

Chapter summary: Bereaved families

You are entitled to:

- know the name of the driver(s) involved and their motor insurance policy details.
- ask questions at the inquest (but not those related to criminal or civil liability).
- meet with the CPS where they will explain their charging decision.
- receive information on local and national support services.
- be kept informed of the court case progress, including dates and times of court hearings.
- receive travel expenses for attending court if the driver has been charged with causing the death (this does not include careless driving or other summary charges).

In addition, RoadPeace recommends the police also offer to:

- Escort you to the crash site and explain what is known about the circumstances and allow you to place flowers or a plaque, should you so desire.
- Meet with you before any inquest and show you the evidence, including photographs and witness statements, except for those cases where the bereaved family includes witnesses or the suspect driver.
- Notify you in writing of any key event, such as when they interview the driver or when they pass the file on to the CPS and what, if any, charging recommendation it includes.
- Provide a free copy of the investigation report and offer a meeting to review the case when the investigation is concluded.

10 Ensuring lessons are learned

The findings of investigations into fatal collisions can help to reduce future road casualty numbers. This is one of the priorities of the Association of Chief Police Officers/Department for Transport/Home Office Road Policing Strategy.

ACPO and NPJA, 2007

It is important for bereaved families to know that lessons are learned from the death of their loved one and for the risk to others is reduced. This can include implementing road safety measures or a change in policy so that investigations are improved or that bereaved families are treated with the utmost respect and kept properly informed.

10.1 Quality assurance of investigation

The RDIM recommends that police develop a formal review process that includes 'implementing relevant good practice and lessons learned across the force'. Reviews are to be conducted at the end of a trial or inquest but the RDIM also states that: *'At a minimum, a fatal collision which has not been resolved or detected after twenty eight days from the outset of the investigation should be reviewed'*

10.2 Exit meeting

After the inquest or trial, you may have a final meeting with the FLO. After this the FLO is not expected to be in contact with the family. These

'exit' meetings may also be attended by the SIO. This is a good time for families to highlight any suggestions they have for the police on collision investigation or liaising with bereaved families.

Families may also be asked at this time for their feedback on the police or if they want to get involved and support any local road safety campaigns.

10.3 Closing note

We hope that this Guide has been useful to you at this time. Do please let us know of any way in which it can be improved, as, sadly, there will be many more families in the future who will need this information.

Please also do not forget that RoadPeace operates a helpline (0845 4500 355) staffed by RoadPeace volunteers who provide confidential, emotional and practical support to anyone who rings. All Helpline volunteers have had personal experience of road crashes and the vast majority are bereaved - callers can telephone to talk through whatever they've been through.

We also operate a "befriender" scheme to put callers in contact with people who are share similar circumstances, such as bereaved mothers, fathers, siblings, or friends. RoadPeace also has a number of local groups who campaign to reduce the risk of road crashes in their communities.

Chapter summary: Lessons learned

You should be informed when the FLO's work is finished. You may ask

- for a final meeting with the FLO and the SIO and discuss any good practice or areas where the service could be improved.
- what has been learned to reduce the risk of similar crashes reoccurring in the future.
- how you or your family could help the police or local authority raise awareness of the risks of road crashes.

11 Summary

11.1 Introduction

- Each day in the UK, six families suffer the shock of a sudden bereavement from a road crash.
- RoadPeace has a national helpline, a network of befrienders and local groups around the country. We can put you in contact with another person who has been bereaved by a road crash.

11.2 Road death investigation

Please remember that:

- The ACPO Road Death Investigation Manual (RDIM) is advisory. Each police force is independent and determines the resources allocated to all ongoing investigations.
- The Senior Investigation Officer is in charge of all collision investigation related decisions.
- The police will develop an investigation plan and record all key decisions in a policy file.
- The Family Liaison Officer is part of the investigation team and, while their role is to keep the family informed, they are also expected to keep a log and report back on anything they learn from the family.
- Bereaved families may also find it useful to keep a written record of the investigation progress and a log of the contacts with the police, coroner's officer, solicitors, CPS, etc.
- Each family has individual needs and expectations. Some want lots of information, others a summary

and others none at all. There is no right and wrong, but the police may wait to be asked by the family before offering information.

11.3 At-scene investigation

You may be informed of such key points as:

- Where the point of impact occurred and how they determined it.
- What the approach and impact vehicle speeds were estimated to be and how these were calculated.
- How the local traffic management system (traffic signals, signs, lights) was checked to see if it contributed to the crash.
- What tests, including breathalyser, were done on the driver(s) at the crash site.

11.4 Site investigation

You may be informed of the information collected on the:

- Number and type of collisions at the crash site in recent years.
- Maintenance record of the site.
- Any local concerns about speeding, visibility, etc.
- Any traffic signal, road layout or engineering issues.

11.5 Vehicle examination

You may be informed:

What will be done to determine if the vehicle condition contributed to the crash or the victim's death.

11.6 Witness identification and interview

You may be informed:

- How witnesses are identified.
- Who is authorised to interview witnesses.
- If you can help with a media appeal for information or witnesses.

11.7 Driver investigation

You may be informed:

- The results of any drink or drug test conducted.
- Insurance details.
- Why the driver(s) needs to be interviewed last.
- Whether checks on mobile phone records and eyesight were done.

11.8 Charging

You may be informed:

- When the case file was passed to the CPS, and which criminal charge, if any, the police have recommended to the CPS.
- Which criminal charge, if any, the CPS will use in prosecuting a driver. This will have to pass their test of sufficient evidence and that of public interest. This should be clearly explained in the letter they send to you.
- That you are entitled to a meeting with the CPS where they will explain their charging decision.
- Line put through this section – why?

11.9 Bereaved family rights and recommended support services

You are entitled to:

- know the name of the driver(s) involved and their motor insurance policy details.
- ask questions at the inquest (but not those related to criminal or civil liability), meet with the CPS where they will explain their charging decision.
- receive information on local and national support services.
- be kept informed of the court case progress, including dates and times of court hearings.
- receive travel expenses for attending court if the driver has been charged with causing the death (this does not include careless driving or other summary charges).

In addition, RoadPeace recommends the police also offer to:

- Escort you to the crash site and explain what is known about the circumstances and allow you to place flowers or a plaque, should you so desire.
- Meet with you before any inquest and show you the evidence, including photographs and witness statements.
- Notify you in writing of any key event, such as when they interview the driver or when they pass the file on to the CPS and what, if any, charging recommendation it includes.
- Provide a free copy of the investigation report and offer a

meeting to review the case when the investigation is concluded.

11.10 Ensuring lessons are learned

After the police investigation has been completed, you should have the opportunity to ask:

- for a final meeting with the FLO and the SIO to discuss any good practice or areas where the service could be improved.
- what has been learned to reduce the risk of similar crashes reoccurring in the future.
- How you or your family could help the police or local authority raise awareness of the risks of road crashes.

Please also know that RoadPeace wants to hear how this guide can be improved. We are interested in hearing what additional information should be included, if the wording or organisation can be improved, or any suggestions as to how to make it more useful for newly bereaved families.

12 References

ACPO and NPIA (2007), Road Death Investigation Manual, http://www.acpo.police.uk/asp/policies/Data/road_death_investigation_manual_18x12x07.pdf

Criminal Justice System (2005) Code of Practice for Victims of Crime <http://www.homeoffice.gov.uk/documents/victims-code-of-practice?view=Binary>

Crown Prosecution Service (2006), Code for Prosecutors, <http://www.cps.gov.uk/publications/docs/code2004english.pdf>

Crown Prosecution Service (2007), Bad Driving Prosecution Policy, http://www.cps.gov.uk/Publications/prosecution/pbd_policy.html

Department of Transport (2010). Reported Road Casualties Great Britain 2009: Annual Report

Ministry of Justice (2010), Criminal statistics, Offences relating to motor vehicles England and Wales 2009, Supplementary tables, Office for Criminal Justice Reform, Ministry of Justice

Home Office (2006): The Code of Practice for Victims of Crime, <http://www.homeoffice.gov.uk/documents/victims-code-of-practice>

Appendix A: Bereaved family checklist

Have you

- Clarified to your FLO which family member is the representative?
- Asked how many photos were taken and if you can see all of them?
- Asked how many witnesses were identified at the scene?
- Asked what more is being done to identify witnesses and how you can help?
- Asked what was checked with the driver(s) at the scene-breathalyser results are immediate, drug testing undertaken, mobile phone confiscated, eyesight checked?
- Requested to be informed when the police pass the file to the CPS and what their charging recommendation is?
- Obtained the contact and insurance details of the driver(s) involved.

If you are escorted to the site by the police, you may want to bring a camera and consider asking:

- How do they know where the impact occurred?
- The direction of vehicles and location of witnesses?
- What at the scene indicates the speed of the vehicles?
- Where do any skidmarks stop and start?
- Did the SIO attend the scene? If so, when?
- Can they provide a sketch map with key locations marked?
- If you are allowed to leave flowers or a plaque at the site? This varies according to local highway authority policy.