

Victoria Police Manual

The Victoria Police Manual is issued under the authority of the Chief Commissioner of Police in s.60, Victoria Police Act 2013. Non-compliance with or a departure from the Victoria Police Manual may be subject to management or disciplinary action. Employees must use the VPM Professional and ethical standards to inform the decisions they make to support compliance.

Death or serious injury/illness incidents involving police

Context

Death or serious injury/illness incidents (DSII incidents) involving police must be subject to investigation, oversight and review to ensure all appropriate actions are taken and to maintain public trust and confidence in police. These incidents may be investigated by the Independent Broad-based Anti-corruption Commission or Victoria Police. This policy aims to ensure that where DSII incidents are investigated by police, they are investigated thoroughly and transparently, and to ensure that the interests of all parties are appropriately represented and supported.

The investigation into such an incident is subject to oversight to provide an independent view and to ensure that the investigation's integrity is maintained. DSII incidents involving police may also be subject to independent internal review so that improvement to policy or practice can be promptly identified and implemented.

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Definitions

Critical incident – in accordance with s. 82, *Victoria Police Act 2013*, critical incident means:

- an incident involving the discharge of a firearm by a member of Victoria Police personnel while the member is on duty
- an incident involving a member of Victoria Police personnel while the member is on duty which:

- results in the death of, or serious injury to, a person
- also involves any one or more of the following:
 - the use of force by the member
 - the use of a motor vehicle by the member (including as a passenger) in the course of the member's duty
 - the death of, or serious injury to, a person while that person is in the custody of the member.

Death or serious injury/illness (DSII) incident – a DSII incident includes:

- death or serious injury/illness involving:
 - the discharge of a firearm or use of force by an employee
 - the use of a vehicle by an employee in the course of their duties
 - the person being in the care or custody of an employee
 - attempts to bring a person in custody (e.g. sieges, suicides)
 - an escape or attempted escape from police custody
 - any police actions or inactions during other policing activities or operations.
- death or serious injury/illness before or following police contact where there is an indication or could be a perception that police actions or inactions may have caused or contributed to the death or injury/illness.

Senior investigating officer (SIO) – an officer of the rank of inspector or above from the unit responsible for the investigation.

Senior overseeing officer (SOO) – an officer of the rank of inspector or above from the unit responsible for oversight of the investigation.

Serious illness – an illness that requires the person to be admitted to hospital while the person was in the care or custody of an employee. This does not include where the person is admitted to hospital solely under s. 242, the *Mental Health and Wellbeing Act 2022*.

Serious injury – an injury that is life threatening, likely to result in permanent impairment or likely to require long-term rehabilitation.

Scope and application

This policy applies to all Victoria Police employees.

Policy

- A matter may be considered a DSII incident where the death or serious injury/illness has occurred before police contact. For example, police assistance is requested to attend a family violence incident or an attempted suicide, and a person dies or is seriously injured or becomes seriously ill before police arrive at the scene.
- A DSII incident may occur after a person had contact with police, whether that is hours, days or weeks after the contact. Regardless of how much time has elapsed, there may be a need to examine whether employees dealt with the person in accordance with their responsibilities and Victoria Police policies and procedures.

- In all cases, the investigator must assess the circumstances of the matter to determine whether there is an indication or could be a perception that police actions or inactions may have caused or contributed to the death or serious injury/illness. If so, the incident must be investigated as a DSII incident.
- If there is any doubt about whether a matter should be dealt with as a DSII incident, the investigator must consult with the Professional Standards Command (PSC) Duty Team Leader.
- Even in circumstances where the injury or illness is not physically 'serious', the circumstances of an incident may bring Victoria Police's policies, procedures and practices into question. In such cases consideration should be given to managing and investigating the incident as a DSII incident, including the requirement to consider testing the employees for alcohol and other drugs.

Responsibilities and procedures

1. Investigation, oversight and review framework

1.1 Overview

The following framework applies to DSII incidents involving police employees, to ensure that all such incidents are appropriately investigated, oversighted and reviewed:

Role	Responsibility	Functions
Investigation Death or serious injury/illness in police presence or custody Note: Investigations should be approached on the basis that the death may be a homicide. Suicide should never be presumed.	• Deaths – Homicide Squad • Fatal collisions – Major Collision Investigation Unit • Non-fatal incidents – Crime squad or unit nominated by Deputy Commissioner (Public Safety and Security)	• To identify how and why the death or serious injury/illness occurred • To determine if an offence has been committed by any person involved in the DSII incident • If a death, this investigation is on behalf of the Coroner under the <i>Coroners Act 2008</i>
Death or serious injury/illness before or following police contact	Squad or unit nominated by Deputy Commissioner (Public Safety and Security)	
Related criminal matters	Local CIU or Crime Squad	To investigate any crime committed by the person who died or who received a serious injury/illness, or another person otherwise involved,

		prior to such death or serious injury/illness
Oversight	PSC (all deaths) or regional investigator/s (serious injury/illness), if determined by the Assistant Commissioner, PSC to be appropriate in the circumstances	To ensure the integrity of the investigation of the DSII incident
Debrief and review	The appointed Review Officer (see section 8 of this policy)	- To attend the debrief of the incident and assess the strategy and tactics of the incident or operation - To identify and recommend opportunities for improvement in police systems, process, practice, policy and training

1.2 *Conflict of interest*

- To support the independence and transparency of the functions of investigation, oversight and review, employees directly involved in these functions (as a minimum, this includes the incident investigator/s (including forensic officers), appointed overseer/s and the Review Officer) must assess and declare whether they have a connection to police or other parties subject to the DSII incident. Such members must complete a Conflict of Interest Disclosure - Investigation form [Form 1426] and submit it to:
 - the SIO for those involved in the investigation function
 - the SOO for those involved in the oversight function
 - the Reviews Division for those involved in the review function.
- The SIO, SOO and the Policing Research and Reviews Division must determine if there are any conflict of interest issues that should preclude an employee undertaking a role in the relevant function. If there is an actual, potential or perceived conflict of interest issue, they must determine whether the conflict can be managed or if the employee should not participate in the relevant function.
- To maintain independence and transparency in the investigation, oversight and review of the DSII incident, there must (unless exceptional circumstances exist, such as in a rural area) be a geographical separation (by Local Area Command) between the relevant parties (subject member, investigator, overseeing officer and Review Officer) associated with the incident.
- For further information see **VPMG Oversight of death or serious injury/illness incidents involving police** and **VPM Conflict of interest**.

2. Initial action at an incident

2.1 *Determination of a DSII incident*

The Police Commander is responsible for determining that an event is a DSII incident.

To assist in that decision, the Police Commander should obtain and consider all available information about the incident. The Police Commander must also consult with:

- the relevant Duty Officer where the incident occurred
- PSC.

The Police Commander must document their reasons for determining whether to define an event as a DSII incident.

2.2 *Scene and incident management*

If a DSII incident has been determined:

- the incident must be managed in accordance with **VPM Emergency management response**
- the scene must be managed and preserved as for a crime scene; see **VPM Scene management**
- the Police Commander must ensure that the actions on the *Initial Action List for managing DSII incidents* are completed
- the Police Commander must ensure that relevant investigators, managers and support services are notified through Police Communications and attend the scene as required. These may include:
 - Coroner
 - relevant investigators in accordance with section 2 of this policy
 - Forensic Services Department
 - relevant Regional/Command/Departmental supervisors and managers
 - Media Communications and Engagement Department
 - PSC
 - Drug and Alcohol Testing Unit
 - Wellbeing Services, including Police Psychology Unit, to provide assessment of fitness to give a statement and to provide psychological aftercare, support and assistance to employees involved in the incident
 - Operational Safety Division, who may be requested to assist investigators if the incident involves use of operational safety equipment or tactics.
- the scene of death should be subject to a thorough examination including the seizure of exhibits for forensic science examination and the recording of the scene of death by means of high quality colour photography
- the scene of a death in custody should also be video recorded
- the Police Commander must ensure that the Information Sheet for Employees Involved in Death or Serious Injury/illness Incidents is provided and explained to employees involved in the incident.

2.3 *Testing for alcohol or drugs of dependence*

Legislative authority

Section 86, *Victoria Police Act* states that an employee may be directed to be tested for the presence of alcohol or a drug of dependence if it is reasonably believed that they have been involved in a 'critical incident' as defined in s.82, *Victoria Police Act*.

Other tests

A test under the *Victoria Police Act* is in addition to other forensic tests or a test conducted under the *Road Safety Act 1986*.

Arranging a test

- An inspector or above (where possible this should be the Police Commander) must consider the need to test the employee/s involved in the incident for alcohol and drugs of dependence.
- If testing is required, the inspector or above, must contact Police Communications to arrange testing. Further detail on the procedure for authorising and obtaining a test under the *Victoria Police Act* is in **VPM Alcohol and other drugs – workplace testing**.

3. Welfare and counselling

3.1 *Immediately following the incident*

Victoria Police employees - the Police Commander must ensure that Victoria Police Wellbeing Services is notified via the 24 hour on call number, and that Victoria Police employees involved in DSII incidents are provided with:

- the opportunity to consult with Police Psychology Unit to determine the welfare status of the employee, to provide critical incident psychological aftercare, to provide timely information about available support and to manage their ongoing welfare needs, as required
- the opportunity to consult with Police Psychology and Police Welfare prior to providing any statement or engaging in any re-enactment
- an awareness of their rights regarding the provision of statements and participation in re-enactments or other activities where it may conflict with psychological wellbeing
- all reasonable and immediate support they may require, including referrals to the appropriate support services provided by Wellbeing Services.

Victims and affected others - the Police Commander must ensure that members seeking support for victims and affected others make relevant referrals using Victoria Police e-Referral (VPeR) in LEDR Mk 2. Members must adhere to the *Victims' Charter Act 2006* when engaging victims of crime (see **VPM Victim support and Victoria Police e-Referral (VPeR) System Practice Guide**).

3.2 *Follow up action*

Within three months of the DSII incident, an inspector or above, must speak to the employees/s involved to ensure that all appropriate action has been taken to assist their ongoing welfare, in accordance with the principles outlined in the *Victims' Charter Act* relating to the provision of timely information and entitlement to support services.

4. Investigation

- The member/s appointed to investigate the DSII incident must undertake their role having regard to the principles in **VPM Crime attendance – initial action**, **VPM Deceased persons** and **VPM Road policing - general**.

- The responsible investigation team will be required to conduct a full investigation of the incident. All investigations should extend beyond an inquiry into whether death occurred as a result of criminal behaviour and should include inquiry into the lawfulness of the custody and the general care, treatment and supervision of the deceased prior to death.
- In the course of inquiry into the general care, treatment or supervision of the deceased prior to death, particular attention should be given to whether custodial officers observed all relevant policies and instructions relating to the care, treatment and supervision of the deceased.
- The investigations into deaths in police watch-houses should include full inquiry into the circumstances leading to incarceration, including the circumstances of arrest or apprehension and the deceased's activities beforehand.
- The SIO is responsible for ensuring appropriate action is taken concerning the prosecution of any person for any identified offence arising from the investigation.

5. Oversight

- The member/s appointed to oversight the DSII incident must undertake their role having regard to **VPMG Oversight of death or serious injury/illness incidents involving police**.
- The SOO is responsible for ensuring comprehensive independent and unbiased critical oversight of the investigation.

6. Notification and reporting

Following a DSII incident, the following reports must be made:

- the Police Commander must submit an Incident Fact Sheet (IFS), except when the incident is considered sensitive; see below
- an IFS must not be submitted where the incident is of a sensitive nature which may be compromised by its inclusion on an IFS, or where the incident involves a death or when directed by an Assistant or Deputy Commissioner. In these situations, a Superintendent, PSC, in consultation with the lead investigator, must submit a briefing note
- the relevant Regional Commander must notify the Deputy Commissioner (Regional Operations).

When completing an IFS, members must comply with **VPM Operational duties and responsibilities**, including the restrictions on what information must not be included.

7. Comments to the media

Comments to the media about DSII incidents must only be made by the nominated police spokesperson, who must be:

- incident resulting in a death – an Assistant Commissioner or above
- non-fatal incidents – a superintendent or above.

The police spokesperson must liaise with the Media Unit to develop an appropriate media response, having regard to **VPMG Release of information to the media**.

8. Reviews

8.1 *Initiation of a review*

In consultation with the other Deputy Commissioners, the Deputy Commissioner, Capability, may initiate a review into an incident, including:

- a DSII incident, where considered appropriate
- any other incident, or series of incidents.

8.2 *Appointment of Review Officer*

The Deputy Commissioner, Capability, must:

- nominate a Review Officer (a superintendent for a DSII incident or other suitably qualified person for a serious injury/illness incident)
- endorse Terms of Reference (TOR) prepared by the Policing Research and Reviews Division, Capability Department.

Selection of the Review Officer must also consider any conflicts of interest.

8.3 *Review Officer responsibilities*

The Review Officer must:

- gather and evaluate all documents and material relating to the DSII incident in context of the TOR for the review
- attend debriefings of the DSII incident and liaise with the investigation team and oversight personnel to obtain information specific to the incident, for example; reports, briefings, running sheets, documents, CCTV footage and briefs
- prepare a report which documents the observations and any identified issues that relate to policy, process, practice, systems and training.

The review report should not make recommendations that relate to the functions of investigation or oversight.

8.4 *Issues and recommendations*

- Where the Review Officer identifies an issue, they must consult with the relevant areas of the organisation to identify appropriate and effective remedial action/s.
- The Review Officer should reflect these proposed actions in the report as recommendations, which the relevant nominated area is responsible for implementing once the report is endorsed.
- The Review Officer should reflect the discussions and any issues in the report before submitting it to the Policing Research and Reviews Division.
- The Policing Research and Reviews Division will formally consult with the Policy Owner regarding the issues raised.

8.5 *Endorsement of report*

- The Review Officer must submit their report to the Policing Research and Reviews Division for progression of the report, via chain of command, to the Deputy Commissioner, Capability. The Deputy Commissioner, Capability, will then consider the nature of the review and allocate to either the:
 - Operational Safety Committee (OSC)
 - Safety, People, Culture Committee (SPCC).

- The role of either committee is to consider the review report from a whole of organisation perspective and either:
 - endorse the recommendation/s
 - reject the recommendation/s
 - alter the recommendation/s
 - make a new recommendation/s.
- The relevant Executive Command member is responsible for overseeing implementation of any recommendations as endorsed by the OSC or SPCC.
- The Policing Research and Reviews Division is responsible for both monitoring the recommendations and recording them on TeamCentral where they can be tracked.

9. Information sheets

9.1 *Information sheets for employees*

- The following information sheets are provided to assist employees to deal with these highly stressful and scrutinised incidents.
- The *Initial Action Checklist for Managing Death or Serious Injury/illness Incidents* is provided to assist Police Commanders with managing such incidents.
- As above, the Police Commander must provide and explain the *Information Sheet for Employees Involved in Death or Serious Injury/illness Incident* to employees involved in the incident.

9.2 *Information for relevant parties*

Provide the *Information for relevant parties involved in the oversight of a death or serious injury/illness incidents involving police* to relevant parties and include the contact details of the member overseeing and investigator.

Related documents

- VPM Scene management
- VPMP Operational debriefings
- VPMG Oversight of death or serious injury/illness incidents involving police
- VPM Alcohol and other drugs – workplace testing
- VPM Operational duties and responsibilities
- VPMG Release of information to the media
- VPM Victim support
- VPM Crime attendance – initial action
- VPM Crime investigation – Case management
- Victoria Police e-Referral (VPeR) System Practice Guide

Further advice and information

For further advice and assistance regarding this Policy, contact your supervisor or local training officer.

Update history

DATE UPDATED	SUMMARY OF CHANGE	FORCE FILE NUMBER
14/01/2021	Consolidation of VPMP Death or serious injury/illness incidents involving police and VPMG Death or serious injury/illness incidents involving police – initial action and VPM review regarding OSCIR processes.	FF-186541
02/06/2021	Updated to reflect references to new VPM Alcohol and other drugs and VPM Victim support	FF-118693
18/10/2021	Inclusion of Recommendation 35 of the Royal Commission into Aboriginal Deaths in Custody to provide specific directions into the conduct of investigations.	FF-197478 1
13/10/2022	Cross reference updated to new VPM Road policing - general	FF-190724 2
01/09/23	Update to reflect new terminology and legislative references under the VPM Care and control , which implements the <i>Mental Health and Wellbeing Act 2022</i> .	FF-232451 1
22/09/25	Cross reference to new Victoria Police e-Referral (VPeR) System Practice Guide added, update to Related documents.	FF- 266230