

Victoria Police Manual – Procedures and Guidelines

Oversight of death or serious injury/illness incidents involving police

Source policy

These Procedures and Guidelines support and must be read in conjunction with the following:

- VPMP Death or serious injury/illness incidents involving police
- VPMG Death or serious injury/illness incidents involving police – initial action
- VPM Conflict of interest
- VPMP Complaints and discipline

Application

Procedures and Guidelines are provided to support the interpretation and application of rules and responsibilities. They include recommended good practices and assessment tools to help employees make lawful, ethical and professional decisions. Employees should use the **Professional and ethical standards** to inform the decisions they make to support interpretation of these Procedures and Guidelines.

Procedures and Guidelines are not mandatory requirements on their own. However, where rules and responsibilities state that employees must have regard to Procedures and Guidelines, the Procedures and Guidelines must be used to help make decisions in support of the rules.

Procedures and Guidelines

1. Introduction

Incidents of death or serious injury/illness involving police (DSII incidents) will subject individual employees and Victoria Police to intense scrutiny.

Victoria Police has an obligation to oversight such incidents. Oversighting is a process that allows for a comprehensive, independent, unbiased critical review of the circumstances and investigation surrounding a DSII incident. The oversight role must ensure that the oversight and investigation are conducted in a timely manner in accordance with legislation, Victoria Police policy, due process and natural justice. It is imperative that in any DSII incident that the interests of all parties are appropriately represented and supported and that community confidence is maintained.

A set of guiding principles for oversight has been developed and applies to matters that must be considered throughout the oversight. Each incident is unique in its circumstances therefore the principles are not an exhaustive list of instructions. It is also important that information from DSII incidents informs and enhances future policy or practice that will reduce their incidence and impact.

These principles can equally be applied where necessary to any other oversight or investigation not being a DSII incident.

2. Application

The objective of the oversight role is to ensure that there is no impediment to the investigation, and that the integrity of the investigation and welfare of all parties is maintained through the investigation and oversight processes.

Oversight role includes:

- Continuous and proportionate monitoring of all stages of the investigation from the incident to finalisation and in the case of a death, the inquest
- Ensuring the quality and conduct of the investigation is in line with the oversight principles
- Ensuring the investigation into the incident is conducted impartially, objectively and without bias regarding any employee or other relevant parties involved
- Making any relevant comment, or suggesting further inquiries to those assigned to investigate or manage the incident if considered necessary, to satisfy any future internal or external examination and scrutiny of the adequacy or integrity of the investigation
- Ensuring accountability and transparency
- Maintaining procedural fairness and natural justice
- Identifying and investigating any criminality or breaches of discipline that arise
- Oversighting the police response holistically and ensuring the member investigating the incident advises the senior overseeing member of all developments during the investigation
- Ensuring and maintaining the welfare and rights of all persons involved in the incident (police employees and other relevant parties) including those appointed to investigate and oversight
- Maintaining community confidence and engagement

- Maximising opportunities for improvement through organisational learning.

3. Oversight principles

3.1 Overview

There are nine oversight principles. They are:

1. Managing conflict of interest
2. Accountability
3. Proportionality
4. Monitoring
5. Capability
6. Timeliness
7. Human rights
8. Organisational learning
9. Inclusiveness and openness with relevant parties

3.2 Guidelines for principles

1. Managing conflict of interest

- Where possible employees involved in the oversight or the investigation of the incident should not have a substantial connection to police employees or other parties who are the subject of the incident being investigated and oversighted. Also, there should not be any integrity issues that could lead management or a reasonable person to conclude that a conflict of interest may or does exist; see section 3, **VPMP Death or serious injury/illness incidents involving police**.
- To maintain independence and transparency in the investigation and oversight of the incident, there must (unless exceptional circumstances exist) be a geographical separation (by Local Area Command) between the three relevant parties (subject member, investigator and overseeing officer) associated with the incident.
- Employees involved in the oversight or the investigation are required to complete the Oversight/investigation Conflict of Interest form [Form 1426]; see section 4. Conflicts declared may be managed by way of a documented management plan.

2. Accountability

- The oversight must ensure the highest level of accountability and professionalism is displayed in all aspects of the investigation by those assigned.
- All aspects of the oversight and investigation must be appropriately documented using Interpose and other suitable recording methods, to ensure that the incident response and any action or non action will pass any future scrutiny.

3. Proportionality

- The response to an incident must be proportionate to the impact of the incident. The level of oversight and investigation of the incident must be proportional to the seriousness of the incident and the risk(s) involved, particularly the risk to the loss of community confidence, procedural fairness and integrity of the oversight and investigation.
- The response must also be flexible enough to be able to scale up or down as the situation and facts dictate throughout the life of the oversight and investigation.

4. Monitoring

- The oversight role must also include the monitoring of the initial response which includes the preservation and gathering of evidence as soon as reasonably and practically possible and to ensure that all appropriate services have been requested, despatched and utilised in a timely manner.
- Oversighters must also ensure that any identified issues and any criminal or discipline offences arising out of the investigation are actioned appropriately.
- Oversighters are to progressively record observations against these principles for later reference from the incident to finalisation and in the case of a death the inquest.

5. Capability

- The assigned overseighter and investigator/s must be appropriately skilled and experienced to effectively conduct the oversight and investigation roles and/or have access to required resources.
- The oversight must ensure the investigation is conducted in accordance with applicable Victoria Police policies, procedures and standards.
- The oversight must ensure the investigation includes all relevant facts.

- The oversight must take into account any OH&S issues for oversight, investigation and peripheral staff regarding provision of a safe working environment. Any issues that may impact on capability (including fatigue) must be addressed.

6. Timeliness

The oversight must ensure the investigation is conducted as expeditiously as possible without compromising the integrity and quality of the investigation. Unnecessary delays can lead to criticism and public scrutiny.

7. Human rights

The oversight and investigation must take into account the inherent rights and freedoms of all persons involved. The overseighter and investigator are required to identify rights that were limited, and consider if there was reasonable justification for the limitation and how it was exercised. These rights include, but are not limited to, rights and freedoms set out in the *Victorian Charter of Human Rights and Responsibilities Act 2006* and the International Human Rights Standards for Law Enforcement

8. Organisational learning

The overseighter and investigator must bear in mind organisational process and policy and identify and report any relevant organisational learning opportunities or proposed policy or process changes

9. Inclusiveness and openness with relevant parties

- The oversight and investigation must involve all next of kin, witnesses, subject employee(s) and others involved or directly affected by the incident in the oversight and investigation process as appropriate. This includes maintaining regular and active communication with next of kin, witnesses, subject employee(s) and others involved or directly affected by the incident on the progress of the investigation and oversight as per the *Victims' Charter Act 2006*. Contact with the affected parties should be maintained primarily by the investigator. Direct contact between the assigned overseighter and relevant parties should only occur in exceptional circumstances.
- The *Information for relevant parties involved in a death or serious injury/illness incident involving police* (available in **VPMG Death or serious injury/illness incidents involving police – initial action**) should be used to inform relevant parties about the investigation and oversight process and the contact details of the overseighter and investigator.
- The assigned overseighter and investigator must ensure that the next of kin, witnesses, subject employee(s) and others involved or directly affected by

the incident are informed of and have access to victim and welfare support. A family liaison officer should be considered where appropriate.

4. Conflict of interest questionnaire and approval

As stated in **VPMP Death or serious injury/illness incidents involving police**, the Oversight/investigation Conflict of Interest form [Form 1426] must be completed before assigning an employee to duties in relation to the oversight and investigation. The form is designed to identify any conflict of interest issues that may be present, to enable a management plan to be developed and ensure that decision making is open and transparent and would pass future scrutiny. If an employee identifies a potential conflict of interest at any point during the course of the investigation or oversight, an additional Form 1426 must be completed and submitted to their supervisor.

A copy of the completed Form 1426, including any mitigation strategies which have been implemented, will be provided to the employee and their supervisor. The original will form part of the oversight file.

5. Oversight principles checklist

A checklist which is designed to be used as either an aide memoir or for the contemporaneous recording of notes is available on the PSC intranet site. Members must make contemporaneous notes in either their official Police Diary or the checklist against the oversight principles. The checklist will help ensure that the oversight process is transparent and would pass future scrutiny.

6. Interim/final oversight report

A template for interim or final oversight reports, which should be used by overseeing members is available on the PSC intranet site. When completing the template, overseeing members should be aware that Appendix A and B relate to the integrity of the investigation processes not the particulars of the incident itself or any discipline or management actions arising from the incident.

7. Coroner's Court

- As per Practice Direction 4 of 2014 of the *Coroner's Court Act 2008*, when a death occurs as a result of 'police contact' which mandates the holding of an inquest, a directions hearing will be held within 28 days of the death being reported to the coroner.
- The overseeing member in relation to the death must be present at directions hearing.

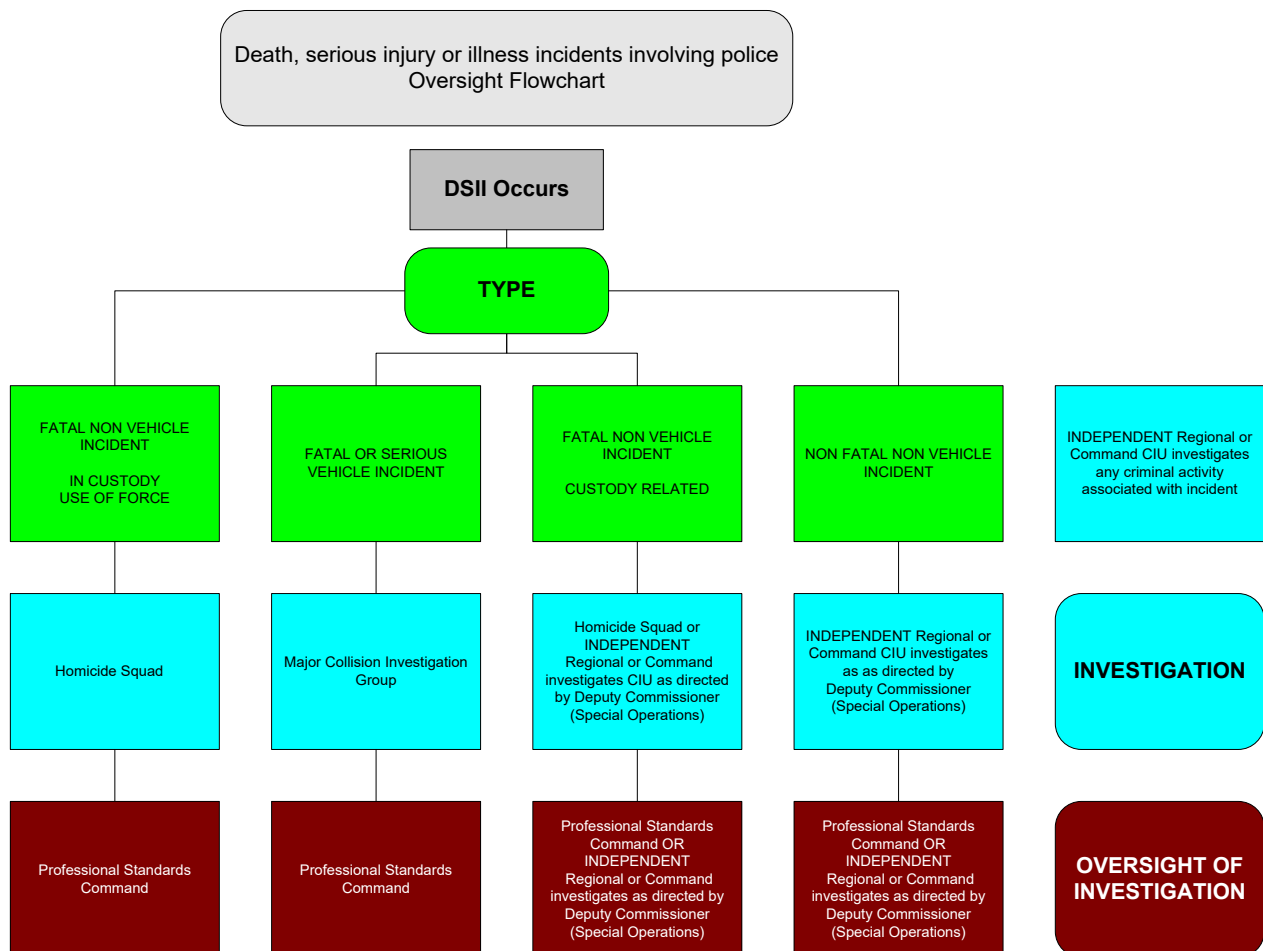
- Incidents which involve a death will require the overseeing member to provide a statement for the coroner to address the application of the oversight principles. To fulfil this obligation, the overseeing member must provide Appendix A and B of the interim/final oversight report (see section 6) to the coroner.

8. Review

An Oversight Review Committee will be convened on a quarterly basis to review PSC conducted oversight investigations relating to deaths or serious injury/illness incidents after police contact as well as other identified incidents. The committee will examine all aspects of the investigation and oversight against the oversight guiding principles. These reviews are intended to inform the Operational Safety Committee (OSC) as well as facilitate a lessons learnt and continuous improvement capability and culture to the organisation.

9. Oversight flowchart

The following chart details the oversight investigation process.



Further Advice and Information

For further advice and assistance regarding these Procedures and Guidelines, contact Professional Standards Command.

Update history

Date of first issue	21/01/2013 [Force File 065463/10]	
Date updated	Summary of change	Force File number
27/05/13	Section 7 amended to reflect the updated Practice Direction under the Coroner's Court Act	PSC D13/006681
07/07/14	Replacement of employee with of member for consistency with VPMP DSI incidents involving police	FF-083579
30/03/15	Review of instrument and inclusion of illness in title after review by PSC	FF-083918
01/07/19	Instrument names amended to reflect updated conflict of interest policy	FF-135496