

# Appendix 'K'

## Evidence Gathering Teams - Public Order Events

### Introduction

- K1 The purpose of this section is to outline Service procedure and guidance in relation to Evidence Gathering Teams (EGTs) that are deployed at public order events, and to ensure that images captured as a result of deployment are processed, stored, reviewed, retained and disposed of in accordance with the Data Protection Act 1998 (DPA) and the PSNI Management of Police Information Handbook 2010. These procedures do not include guidance in relation to vehicle mounted or static Closed Circuit Television (CCTV) functions or body worn systems.
- K2 Photographic and video evidence gathering has proved to be an extremely effective means of securing the conviction of offenders during incidents involving public disorder. An EGT brings together a verbal and chronological description of events, supported by photographic images.
- K3 At public order events, EGTs are deployed to gather the best evidence, against the worst offenders, for the most serious offences. Overt filming by EGT's is an effective police tactic used for the prevention and detection of crime, the maintenance of public order and the gathering of intelligence in support of such policing aims. The evidence gathered can be used to assist in the identification of groups and individuals.
- K4 If feasible, an EGT will also seek to identify and capture a record of other notable incidents, e.g. police warnings to protestors, including signage and the handing over of written warnings. Such footage not only further confirms that warnings were given, but also that they could be clearly seen and heard by members of the public.

### Legal Basis

- K5 There is no legal prohibition on the overt gathering of photographic and video evidence by police, provided such evidence is obtained and used for legitimate police purposes, carried out in an appropriate manner, in pursuance of a recognised and documented policing purpose. This procedure only concerns the gathering of such evidence in an overt manner.
- K6 Section 6 of the Human Rights Act 1998 requires the PSNI, as a public authority, not to act in a manner incompatible with a person's human rights. Article 8 of the European Convention on Human Rights guarantees the right to respect for one's private and family life. Obtaining images of a person in accordance with this procedure and guidance, even in a public place, will involve an interference with the right to respect for one's private life. This is because a record is made of the images (Peck v. United Kingdom, judgment of the European Court of Human Rights

of 28 January 2003). Section 32 of the Police (Northern Ireland) Act 2000 provides a sufficient legal basis for evidence gathering, the aim of which is to protect public safety, the prevention of disorder and crime and the protection of the rights and freedom of others.

- K7 In **Wood v Commissioner of Police of the Metropolis 2009 EWCA Civ 414** the Court of Appeal made it clear that a Common Law right exists to take and retain photographs in certain circumstances. It must be remembered that any 'intrusion' (including the taking and retention of photographs) must be for a clearly defined policing purpose(s) and be necessary and proportionate to the circumstances. It is necessary to distinguish between (a) taking photographs; and (b) retaining, processing or disclosing them. It should also be borne in mind that a person may be exercising their right to private life, even in a public place.
- K8 The taking of a photograph will not constitute an interference with Article 8(1) unless there are aggravating circumstances, for example, if the photograph is taken in an intrusive manner (e.g. after aggressive pursuit of the person.)
- K9 The retention etc of a photograph is an interference with the rights protected by Article 8(1). It will be justified if it is retained/processed etc for a purpose related to the public event in question, for example, the investigation of any crimes that occurred, and the persons who are not the subject of any suspicion are not identified. The criteria are that the retention etc must be in pursuance of a legitimate aim (e.g. the prevention or investigation of disorder or crime or the protection of the rights or freedoms of others) and it must be necessary and proportionate. The retention of the photographs of innocent people is a serious matter. If there is no specific legal basis for the retention etc of photographs, they should be destroyed
- K10 Evidence gathering product is subject to the provisions contained in the Data Protection Act 1998.
- K11 This procedure and guidance should be read in conjunction with the following:
- Home Office Scientific Development Branch (2007) – Digital Imaging Procedure.
  - ACPO (2007) – Practice Advice on Police Use of Digital Images.
  - ACPO APP – Public Order.
  - Chapter 13 of this manual.
  - Imaging Branch guidance (Crime Operations intranet site) 1. Use of Video/ Photographic Evidence for Identification purposes. 2. Digital Imaging Procedures.

## Procedure and guidance

### Evidence Gathering Team

K12 An Evidence Gathering Team will consist of 2 members:

- Evidence gatherer, equipped with suitable and approved equipment.
- Minder or protection officer (equipped with a radio), who will protect the evidence gatherer.

(See K28 Selection and Training)

K13 The dress code for EGTs will be set out in the operational order for the event. Police personnel carrying out these duties must be PSP and level 2 TSG trained, and equipped with Personal Protective Equipment (PPE). In the event of a requirement to wear PPE, each minder should draw a shield from those allocated to their parent District.

K14 When deployed, EGT personnel will wear orange EGT markings on the rear of their public order helmet, to assist identification by other police resources.

### Equipment

K15 The Office of Surveillance Commissioners is a non-departmental public body established to oversee surveillance carried out by public authorities. The Chief Surveillance Commissioner requires that all surveillance equipment be registered. This includes the equipment used by EGTs. Such equipment must be registered with Technical Support Unit (TSU). TSU must also approve purchase, and can advise on specification. Equipment costs will be met by the relevant District.

K16 The evidence gathering equipment consists of the following:

- Suitable camera equipment (a camcorder of sufficient quality as to provide evidential quality footage/stills camera).
- Supply of suitable media storage systems.
- Robust monopod.
  - Two long life rechargeable batteries for camcorder.
- Cable remote control for camcorder use with monopod.
- EGT vehicle mounted camera.

- K17 When not in use, the equipment should be securely stored at locally identified stations as appropriate to each District. The equipment (including batteries) should be maintained so that it is readily available to trained police officers following suitable authorisation, thus allowing an effective deployment in the case of spontaneous incidents.
- K18 In connection with planned events, the issue of the equipment will be authorised by the respective Area/Silver Commander. In respect of unplanned and spontaneous disorder, its issue may be authorised by an officer of at least the rank of Inspector, however this should be followed by written approval from the Area/Silver Commander as soon as practicable.
- K19 The ‘Approval to Deploy Public Order Evidence Gathering Equipment’ (Form EGT1) must be completed whenever equipment is used or when it is planned to be used for public order evidence gathering purposes. Form EGT1 is obtainable under Service Forms on PoliceNet.
- K20 Police officers who are drawing/returning equipment will complete a suitably indexed A4 record book detailing the information as contained at Figure 1 below.

**Figure 1**

**AUDIT OF EVIDENCE GATHERING**

Date/Time of Issue	Officer Receiving	Unit/ Station	Authorised by name/rank	Purpose of Issue	Equipment Issued	Date/ Time Returned	No. of Tapes Used	No. of Photos Taken
<b>Name:</b> <b>Rank:</b> <b>Number:</b> <b>Signature:</b>								
<b>Name:</b> <b>Rank:</b> <b>Number:</b> <b>Signature:</b>								
<b>Name:</b> <b>Rank:</b> <b>Number:</b> <b>Signature:</b>								

**Event Planning and Deployment of Evidence Gathering Teams**

- K21 It is important that the deployment of evidence gatherers is carefully planned, thus ensuring that the potential benefits of evidence gathering are maximised.

- K22 At local level, the provision of EGTs should be managed by their respective operational planning staff. If required, the assistance of additional trained evidence gatherers may be sought from District or Regional resources.
- K23 One important consideration for planning the deployment of an EGT is mobility. Personnel may require the dedicated use of a suitable police vehicle with driver and other crew to ensure that they can travel to the locations where an event takes place and/or disorder occurs. Given the volume of equipment carried on public order duties, experience has shown that a dedicated vehicle is the only option both for proper deployment and safe extraction of the personnel. A vehicle mounted camera can also be considered subject to availability.
- K24 EGTs should be involved in both the briefing and debriefing stages of an event. Bronze Commanders should be briefed on the availability, deployments and specific arrangements for evidence gatherers in their area of command.
- K25 Guidance and specialist advice can be sought from Combined Operational Training (COT) Public Order, Steeple and/or Imaging Branch.
- K26 Public Order Tactical Advisers can also provide advice with regard to the deployment of EGTs prior to or during a public order event.

### **Investigation of Incidents**

- K27 In the planning for a public order event, a policy **MUST** be documented regarding the taking and retention of EGT images. A Senior Investigating Officer (SIO) should be appointed at the silver planning stage and take responsibility for the evidence gatherers under their control, giving careful consideration to their deployment location and ability to move safely to other locations as they actively seek to obtain the evidence required to support the criminal justice strategy. The SIO should then take responsibility for the storage and transfer of data. All copies of images should be disposed of when they have no further evidential value in accordance with force procedure and statutory requirements, and an appropriate entry made to this effect in the audit trail. A useful timeframe for an initial assessment review to take place is at 31 days, as per ACPO Practice Advice.

### **Selection and Training**

- K28 It is the responsibility of Districts to select EGT personnel and identify the number of teams required for their area. Both members of an EGT must be trained and competent in the use of equipment provided for their role, irrespective of the function they are undertaking. Officers selected to be EGT members should be currently at least level 2 public order trained. This competency should be maintained, as up to date tactical awareness is essential.
- K29 COT will be responsible for the delivery of Evidence Gathering Training based on national guidelines.
- K30 Police personnel selected to be trained as members of an EGT should be physically fit

and will be required to pass the TSG job related assessment of physical competence prior to acceptance into training. Details of the assessment can be found on the Occupational Health and Welfare (OHW) intranet website under Physical Competence Assessment/TSG Screening and Pre-Appointment.

- K31 Training will be assessed and only personnel who demonstrate evidence of the predetermined competency levels will be accredited as evidence gatherers.
- K32 On successful completion of training, personnel will receive orange EGT stickers for the rear of their public order helmet.
- K33 To maintain competency, EGT refresher training must be undertaken every 2 years.

## **Guidelines for the processing, handling and storage of evidence gathering product**

### **Authorisation**

- K34 The original recording medium (eg SD Card) should be placed in a Evidence Bag and this bag should be appropriately marked by the evidence gathering officer.
- K35 Evidence gathering equipment will be held at locally identified stations and be under the control of the District Commander.
- K36 The evidence gathering equipment must only be issued with the authority of an Area/Silver commander. If authority is given verbally it should be confirmed in writing at the earliest opportunity. In exceptional circumstances the Duty Inspector may give authority.
- K37 The evidence gathering equipment should only be issued to fully trained police officers conversant with its use.
- K38 A record should be kept of the date, time and purpose of issue and signed by the recipient (see Figure 1 above).

### **Handling**

- K39 Sufficient recording media should be issued.
- K40 The officer operating the equipment will verbally record the name, rank and number of each member of the EGT on the recording media, plus the date, time and purpose for using the equipment.
- K41 If possible, before the expiration of the recording media, police officers should verbally record the date and time, and the fact that the recording is concluded.
- K42 All recordings should be uploaded onto Digital Evidence Management System (DEMS) on the common terminal at the earliest opportunity using their personal issued card reader.

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- K43 It is the responsibility of the EGT operator to confirm the investigating officers service number and amend this on DEMS once the files have been ploaded and the OEL Log updates accordingly.
- K44 It is the responsibility of the investigating officer to decide if any of the uploads are of any evidential value and exhibit them accordingly. Otherwise they should be deleted in accordance with Home Office guidelines after 31 days.
- K45 The equipment, and all unused recording media should be returned once the purpose for which they were issued has expired.
- K46 A record will be kept of the date and time of return, including the number of recording media used and the number of photographs taken (See Figure 1 above).
- K47 The evidence gathering officer should retain possession of the used media until it is processed, as per procedural guidelines.