

Chapter 13:

Public Order

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Chapter 13

Public Order

ACPO Authorised Professional Practice - Public Order

- 13.1 The PSNI have adopted the ACPO APP – Public Order guidance on keeping the peace. The guidance contains legal and procedural variations for Northern Ireland.
- 13.2 ACPO APP – Public Order contains guidance on: command considerations; public order policing; planning and deployment; communication; and tactical options. District Commanders, their Operational Planning staff and SIOs should consult this manual as the basis of command for all public order events. Guidance on criminal justice strategy and the role of the SIO can be found at paragraphs 13.123 - 13.171.
- 13.3 Operational Orders must be prepared in the IIMARCH format. The information contained under the various headings must be succinct and relevant to the operation as the Operational Order will form the basis for briefing and will form an integral part of the audit trail. The template of an Operational Order is contained on Form 11/6, (available on PoliceNet).

The National Public Order Training Curriculum

- 13.4 The curriculum is available on the POLKA website (access is restricted to practitioners and other authorised personnel).
- 13.5 The purpose of the curriculum is to provide guidance on the standards, tactics and training in relation to the discipline referred to ordinarily as either 'Public Order' or 'Keeping the Peace'. It is essentially the tactical complement to the ACPO APP – Public Order.
- 13.6 Guidance on the use of police vehicles and public order screens in situations of public disorder can be found at Appendix 'G'.
- 13.7 Guidance on tactics with public order dogs can be found at Appendix 'H'.
- 13.8 Guidance on the provision of First Aid to police and members of the public during public disorder can be found at Appendix 'I'.
- 13.9 Requirements for the early reporting to NIPB on police discharge of AEP can be found at Appendix J.

Procedure and guidance in relation to public events

Introduction

- 13.10 This procedure and guidance is aimed at all levels of the organisation and applies

to full-time and part-time police officers; members of police staff, including agency staff; and student officers, (collectively referred to as PSNI staff).

Definition of an event

13.11 A public event includes any event or incident, and can range from routine operational policing through to major disorder, where a degree of planning for such an event is necessary and applicable, and therefore a comprehensive audit trail is required. Examples of such events are:

- **Disorder associated with spontaneous incidents, for example:**
 - Community issues.
 - Criminal activity.
 - Police activity.
- **Single issue protests, for example:**
 - Direct action groups.
 - Industrial disputes.
 - Environmental issues.
- **Lawful public events, for example:**
 - Sporting events.
 - Concerts.
 - Notified public processions.
 - Lawful protests.
 - Community events.
- **Unlawful public events, for example:**
 - Unlicensed music events (i.e. raves).
 - Un-notified public processions or un-notified protest meetings.
 - Dog fights.

Procedure and Guidance in Relation to Public Processions

13.12 Procedure and guidance in relation to the all aspects of Public Processions,

and related protests, are detailed separately. These are contained in a Service Procedure No 14/2008 entitled 'Public Processions (NI) Act 1998 and the Parades Commission.' The Public Processions (Amendment) (Northern Ireland) Order 2005 means that the same legislation (i.e. the Public Processions (Northern Ireland) Act 1998) governs processions and protests.

Legal Issues - considerations

- 13.13 Throughout all stages of the planning process (including the Strategy/Planning Meetings and production of the Operational Order), the impact of Section 32 of the Police (Northern Ireland) Act 2000, the Human Rights Act 1998, the Public Order (Northern Ireland) Order 1987, the Police and Criminal Evidence (Northern Ireland) Order 1989 and the PSNI Code of Ethics should be taken into account.
- 13.14 As part of the Audit Trail, in the Strategy Meeting Minutes, Form 11/13, the Planning Meeting Minutes, Form 11/14 and the Operational Order, Form 11/6, in respect of each of the articles of the European Convention on Human Rights (ECHR) set out, consider:
- Whether police actions may interfere with any of the rights protected by the article; and
 - What steps will be taken to ensure that any interference is lawful.
- 13.15 Bear in mind that the police are under a positive duty to secure the rights of others. This may include taking appropriate action to prevent unlawful conduct by persons which prevents persons from enjoying their rights. (Further advice can be sought from the Human Rights Legal Adviser if necessary).
- 13.16 Particular attention is drawn to Article 4.2 of the PSNI Code of Ethics which states:
- 'Police officers responsible for the planning and control of operations where the use of force is a possibility shall so far as possible plan and control them to minimize recourse to the use of force, in particular, potentially lethal force. Consideration shall be given during the planning of an operation to the need for medical assistance to be available.'
- 13.17 Reference to the rights, vulnerabilities and issues faced by children and young people should be included in operational briefings relating to anti-social behaviour and other operations involving children and young people.

Audit trail of the planning process

Requirement

- 13.18 The following measures are required to ensure compliance with the HRA and provide a fully accountable audit trail of the strategy, planning and implementation processes.

National Decision Model

13.19 The National Decision Model (NDM) has been adopted as a decision making tool within the Police Service and will be applied throughout the planning process through to the post event de-brief. The NDM has at its centre a pentagon that emphasizes the importance of keeping the police mission and values, risk management and the protection of human rights at the heart of every decision. The pentagon supports a five-stage decision making process based on information, assessment, powers & policy, options and action & review.

Notification of Event

13.20 Upon receipt of notification for an event, the Commander with responsibility for that police area will make an assessment.

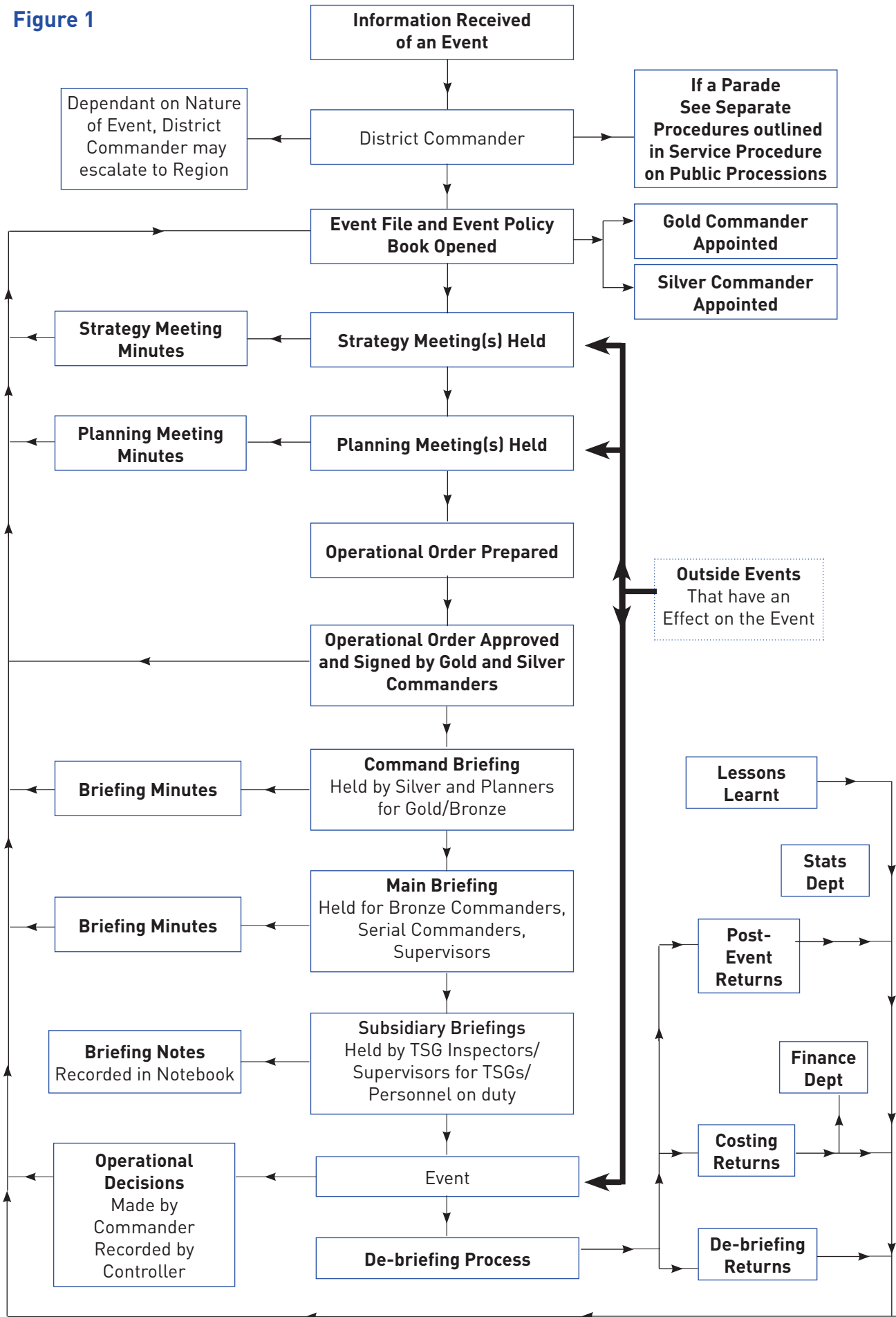
13.21 If the event can be policed from within that command area and it is unlikely that disorder will occur, command levels should be established as appropriate for the event, i.e. command will be from superintending and/or inspecting ranks within that police area. The audit trail based on the Event File Cover/Checklist Form 11/12 should be commenced. An Event File should be commenced. Depending on the event it may be necessary to use some or all of the procedures contained in the checklist.

13.22 If the event straddles more than one command area, or the event has wider implications or is in any way sensitive or where it is likely that disorder may occur, the matter should be referred up the chain of command for consultation and identification of appropriate command levels. When the appropriate command level has been decided, the audit trail based on the Event File Cover/Checklist (Form 11/12) should be commenced. An Event File should be commenced. For this type of event all of the procedures contained in the checklist should be utilized.

13.23 This will initiate the process of identifying strategy for the event.

13.24 A Flow Chart indicating the planning process for an event is shown at Figure 1 below:

Figure 1



Strategy Meeting

- 13.25 Once notification of an event has been received, or as soon as police become aware of an intended event, a Strategy Meeting will be held. Police will be aware of many 'traditional' events and can start the strategy/planning process well in advance of official notification. However, other circumstances may dictate that a Strategy Meeting can only take place following official notification of an event.
- 13.26 The strategy process may necessitate several Strategy Meetings to consider changing circumstances, including substantial implications identified in the planning process, which were not anticipated at previous Strategy Meetings.
- 13.27 A full record of each Strategy Meeting must be recorded using the Form 11/13.
- 13.28 The Strategy for the event must be systematic and follow the template, which is based upon the established IIMARCH briefing system.
- 13.29 At the first Strategy Meeting an 'Event Policy Book', (Form 11/11 available on request) should be opened. This Policy Book remains 'live' throughout the entire process, i.e. it will document everything from the strategic decisions and considerations, the planning process, briefings and through to the eventual de-briefing of the operation. The Event Policy Book will be a constituent part of the 'Event File' (Note – The Event Policy Book is a printed book and therefore not downloadable from PoliceNet). The Silver Commander will be responsible for maintaining the 'Event File', (Form 11/12 available on PoliceNet). In the event of any judicial inquiry (or Police Ombudsman for Northern Ireland (PONI) investigation) the Event File, and any associated documentation, will be disclosable and/or supplied to PONI.

Strategy Group

- 13.30 Discussions should take place between District and Regional Command to establish Gold and Silver Command at appropriate levels for the event in question. Once Gold and Silver Commanders have been identified, a meeting of the strategy group should be held.
- 13.31 The Strategy Group may consist of the following:
- Gold Commander.
 - Silver Commander.
 - Senior Investigating Officer (SIO).
 - TSG Coordinator.
 - Intelligence Coordinator (should be available to act as a conduit at all stages of the process).

- Corporate Communications representative (to co-ordinate PR strategy).
- Planning Coordinator.
- Appropriate military representation (where applicable).
- Tactical Adviser.
- Commanders should consider inviting the Human Rights Legal Adviser where appropriate.
- Other persons as considered appropriate to determine strategy. These may include: Human Resources (HR); Training; Finance; Security Coordinator; Communications; Bronze Commander (Road and Armed Support Unit); Tactical Firearms Adviser (TFA). This list is by no means exhaustive.

13.32 The Strategy Meeting may identify a number of strategic options. The Silver Commander will be responsible for overseeing the planning process and ultimately the production of the Operational Order. If it is necessary to delay a final decision on the strategy to be employed, plans for each option should be prepared as annexes to the Operational Order. When the final decision is made as to the actual strategy to be employed, the relevant annex can be attached to the Operational Order and officers can then be briefed accordingly. In all cases, a full audit trail of the various options should be made and then the decision, and reasons, why the final option was chosen.

The Planning Process

13.33 In the course of gathering information for the planning process, police should be in a position to collate and detail any tension indicators within the community. Tension indicators are manifestations of public unease and may include a rise in sectarian assaults, slogans/graffiti, flags, criminal damage, petrol bombings, intimidation, public disorder at interfaces etc.

13.34 These tension indicators will then form part of a Community Impact Assessment (CIA), based upon the following:

- Available information/intelligence (including any previous history).
- Location, scale, timing.
- Participants, numbers, motivation.
- Specific vulnerabilities of the crowd (e.g. children).
- Spontaneous or pre-planned.
- Community feeling, including the wider community.

- Community representatives.
- Other agencies involved.
- Level of media interest.
- Political implications (local/national).
- Wider policing implications.
- Preferred outcome for police, agencies, community.
- Risk assessment.

- 13.35 It may be necessary to refer major implications for the strategy, as identified during the above process, back to the Strategy Group via the Silver Commander. The Silver Commander should then refer the issue to the Gold Commander and, if necessary, a further meeting of the Strategy Group should be held.
- 13.36 The planning process should also take into account, where applicable, other legislation and guidance. Examples are: the Civil Contingencies Act (CCA) 2004; the Health and Safety at Work (NI) Order 1978; Health and Safety Executive (HSE) guidance (e.g. Event Safety Guide, Guide to Safety at Sports Grounds).

Planning Meetings

- 13.37 The planning process may necessitate several Planning Meetings to consider changing circumstances, including substantial implications identified in the planning process, which were not anticipated at previous Planning Meetings.
- 13.38 The Planning Team should hold regular Planning Meetings, which should be chaired by the Silver Commander.
- 13.39 The Planning Team may include representatives of the following: Roads and Armed Support Unit, Uniform Operations; Crime Operations; Tactical Adviser; Planning Co-ordinator; Communications; Corporate Communications; Logistics; Intelligence; Support Services. Welfare and Staff Association representatives should also be invited to attend. It should also include any other persons as considered appropriate to determine the planning process.
- 13.40 A full record of each Planning Meeting should be made using the Form 11/14.
- 13.41 It is imperative that planning processes for the event must be systematic and follow the template, which is based upon the established IIMARCH Briefing System.
- 13.42 The Silver Commander will oversee the preparation of plans (Operational Orders) to meet the agreed strategy. This will necessitate regular contact with the planning team to assess progress and to ensure adherence to the strategy.

- 13.43 The Planning Team should include representatives of relevant agencies, e.g. military. Tactical Advisers should attend tactical planning meetings when appropriate. Advice given by Tactical Advisers should be recorded in the minutes of the meeting.
- 13.44 The outcome of the Planning Meetings will be the preparation of the Operational Order for the event.

Operational Orders

- 13.45 Operational Orders must be prepared in the IIMARCH format. The information contained under the various headings must be succinct and relevant to the operation as the Operational Order will form the basis for briefing and will form an integral part of the audit trail.
- 13.46 The template of an Operational Order is contained on Form 11/6.
- 13.47 The Operational Order should not contain minute detail, particularly of method, administration and communications. The intricate detail should be confined to annexes (e.g. Police Deployments – Form 11/2) attached to the Operational Order. This will allow for modifications to be made without affecting the Operational Order.
- 13.48 The Strategy Meeting may have identified a number of strategic options. If it is necessary to delay a final decision on the strategy to be employed, plans for each option should be prepared as annexes to the Operational Order. When the final decision is made as to the actual strategy to be employed, the relevant annex can be attached to the Operational Order and officers can then be briefed accordingly.

Event command and control

Gold, Silver and Bronze

- 13.49 The command and direction of the operation must reflect the planning processes. To this end the following procedures will be adopted.
- 13.50 The roles, responsibilities and accountability of commanders, are defined by the Gold - Silver - Bronze command structure. This is clearly outlined in ACPO APP – Public Order. The concept of this command structure is 'role' related and not necessarily rank orientated. Indeed, the ranks of all 3 tiers of command will fluctuate and should be set at a level appropriate to the operation.
- 13.51 It is essential that there should be only one Silver Commander for the event. The Silver Commander is responsible for the planning of the operation, determining the overall tactics and implementing the plan by co-ordinating and directing the Bronze Commanders. This will ensure clear lines of command, direction and accountability. Any external direction (outside of the command structure) should be clearly recorded in the Event Policy Book.

- 13.52 For large scale parades, such as that in Belfast on 12 July, where there are large numbers of 'feeder' parades from other areas (some of which are themselves sensitive), the Gold Commander has the option to treat any or all 'feeder' parades as an event separated from the main parade by time and/or geographical location. This will enable the Gold Commander to maintain command and control over these large-scale events without placing an unreasonable burden on one Silver Commander. It will be important in these circumstances to ensure that each Silver Commander has a clearly defined territorial area of responsibility and an appropriate allocation of Bronze Commanders and resources
- 13.53 If the actual event is protracted, a Silver Commander must be nominated to relieve the original commander for rest periods. The relief Silver Commander should have an intimate knowledge of the strategy and plan for the operation. After a suitable rest period the original Silver Commander should resume command. The relief Silver Commander should stand down at this point until required again. The same provisions should apply to the Bronze level of command and also to Gold if necessary. As soon as this eventuality is anticipated, steps must be taken to include relief Commanders in the command and main briefings
- 13.54 Effective implementation of the Gold - Silver - Bronze command system will ensure accountability, especially in cases where Attenuating Energy Projectiles (Impact Rounds) or other forms of force are deployed/used.

Functional Bronze Commanders

- 13.55 For pre-planned operations, it is Service Policy that Bronze Commanders will have completed the Bronze Commander Course. This course includes the use of AEP as a tactical option in situations of serious public disorder.
- 13.56 Any decisions to use Attenuating Energy Projectiles must be made within the provisions of the Common Law, Section 3 of the Criminal Law Act, Article 2 of Schedule 1 to the HRA, and Chapters 9 and 14 of this manual.
- 13.57 Regions must balance across their area of responsibility in order to meet operational requirements. This process is also open to scrutiny and any decisions, vis-à-vis resource allocation, will require to be fully documented in the Event Policy Book.

Briefings

- 13.58 Briefings are an important component in the implementation of the plan. Briefings must be accurate and to the point and should be as short as practicable. The Operational Order should be used as the briefing document and any questions arising should be minuted on the form entitled Briefing Minutes, see Form 11/15. The combination of the Operational Order and the briefing minute will provide a contemporaneous record of the briefing. These documents will be included in the Event File and will form part of the audit trail.

Command Briefing

- 13.59 Prior to the main operational briefing, the Silver Commander should hold a briefing for Bronze Commanders, which may also be attended by the Gold Commander if considered appropriate. The Operational Order will form the basis for the briefing and any questions arising should be recorded on the appropriate briefing minutes form. The purpose of this briefing is to establish a common understanding of the strategy, tactical options and method to be employed in the operation. In this way the concept of common purpose will be enhanced. In addition, all Commanders will have an overview of the entire operation and how this may influence events in their respective sectors or command levels.

Main Briefing

- 13.60 The main briefing will be the primary method of informing officers in charge of TSGs and Serials of their duties in respect of the operation. The Silver Commander will conduct the main briefing and the respective Bronze Commanders should also be in attendance. The Silver Commander may deliver the briefing in its entirety or, with the assistance of Bronze Commanders (or others) to deliver the relevant information. There is nothing to prevent the Gold Commander from attending the main briefing. Any questions arising should be recorded on the appropriate briefing minutes form.
- 13.61 Where community leaders/representatives or outside agencies are working with police towards achieving a suitable outcome, their respective roles should be explained to officers deployed at the event. The briefing must include a generic brief of the whole Operational Order as well as a role specific brief for individuals.
- 13.62 Best practice indicates that officers should be briefed on specific legal powers relating to offences they are likely to encounter during the operation. This brief should form part of the main briefing under the heading of 'administration' and may be delivered by the SIO or an officer on their behalf. A short guide to relevant legal powers may be included in the annexes to the Operational Order.

Subsidiary Briefings

- 13.63 Subsidiary briefings carried out by TSG/Serial Commanders for people under their direct supervision should be recorded contemporaneously in notebooks, including date, time, place and any pertinent matters arising.
- 13.64 Briefings to outside agencies, e.g. military must also be recorded in line with the above instructions and any combined operations scrutinised for compliance with the HRA. Military support of police will itself be open to human rights audit. Military command, control and interface with police are required to be clearly documented. The military must be briefed by police prior to deployment. All of the above principles will therefore apply. The military will be responsible for establishing their own audit trail.

- 13.65 Plans/briefings should include provision for a Policy on arrests on the day of the operation, as well as prisoner handling procedures. These processes are also subject to the HRA.

Event Policy Book

- 13.66 Many decisions taken throughout the operation will have been anticipated. Others will arise through changing circumstances. The following decisions will require to be recorded 'live' in the 'Event Policy Book'. The Silver Commander will be responsible for ensuring that relevant decisions are recorded, for example:

- Major decisions which impact on the established strategy.
- Major tactical decisions.
- Decisions requiring the authority of a senior officer.
- Any change in strategy.
- Any issue/decision which may have legal (including human rights) consequences and which is not already addressed in the strategy/plan.
- Any other matter which the Silver Commander considers appropriate.

- 13.67 It is not necessary for the officer making the decision to record it in person. It may be done by another officer, (e.g. control room staff), but must be countersigned at a later time by the officer responsible for the decision.

Evidence Gathering

- 13.68 The role of evidence gatherers is crucial, not only in any future prosecutions, but also in any subsequent legal challenges. Evidence gathering must be an integral part of the SIO's role. The SIO should draw together the Criminal Justice Strategy on behalf of Gold and Silver command, including arrest/prosecution policy, prisoner processing, post-incident investigation and contingencies to investigate critical incidents. See Appendix K for procedure and guidance on Evidence Gathering Teams – Public Order.

Post event de-briefing processes

De-briefing

- 13.69 In line with ACPO APP – Public Order, an audit system will be developed to cover all aspects of operations. Random selection of operations for internal audit will test corporacy.
- 13.70 A structured de-brief will provide the opportunity to identify any improvements to systems, equipment and resources (see Forms 11/7 and 11/7(a)).

- 13.71 The de-brief should be seen as the start of the process for planning future events.
- 13.72 It should be made clear that the de-briefing process is not to apportion blame, but to identify the most and least effective aspects of the operation.
- 13.73 The de-briefing process will form part of the audit trail and will, therefore, be discoverable or supplied to PONI in the event of a public complaint or other PONI investigation. A command de-brief should take place alongside the operational de-brief. Written records should be made of each de-brief.

Post-Event Reports

- 13.74 Post-Event reports must be completed and forwarded by Email, PoliceNet or other reporting system as appropriate. This should include relevant statistics relating to the event, e.g. use of force; details relevant to a parade etc.
- 13.75 Reports relative to the Parades Commission should be forwarded to the Parades Commission Liaison Officer (PCLO) as per separate instructions.
- 13.76 The de-briefing process should not be concerned solely with the internal police aspects of the operation. Silver Command should attempt to capture relevant information from the community, participants, organisers etc, in order to evaluate the impact of the police operation.
- 13.77 The de-briefing process and associated reports will be co-ordinated by the Silver Commander. Any lessons to be learned should result in positive action to include best practice in future events or to address areas of poor performance.

Post-Incident Procedure

- 13.78 In line with ACPO guidance, Post Incident Managers (PIMs) will be nominated by the Police Service to act as an interface between the Principal Officers (i.e. those most involved in and most affected by the incident) and the investigators (the Police Service of Northern Ireland / Police Ombudsman for Northern Ireland).
- 13.79 Post Incident Managers should be deployed following the discharge of a firearm (including an L104A2 launcher) by a police officer (other than in training or where the discharge was accidental, within police premises and resulted in no injuries), or whereby following a risk assessment, their use is anticipated. The deployment of PIM Teams will also be considered as part of the planning for events and included in Operational Orders.
- 13.80 PIM teams can also be deployed in other situations such as death in custody, fatal road traffic collisions involving police officers on or off duty and other incidents resulting in the death or serious injury of an individual due to the actions of a police officer, which will be referred to the PONI for investigation.

Procedures and guidance regarding protest activity in public thoroughfares

- 13.81 The purpose of these procedures is to provide a consistent and corporate approach to policing protest activity that involves the obstruction of public thoroughfares. Protest action by way of obstructing public thoroughfares, including roads, has increased in recent years. These protests are often associated with the parades issue. However, other single interest groups also use this method of protest.
- 13.82 Protest activity in a democratic society is a legitimate means of expressing views and opinions. Protestors have a fundamental right to peaceful assembly and to demonstrate without fear of physical violence from those who oppose their ideas. Article 10 of the ECHR imposes an obligation on public authorities, including the police, to take positive action to facilitate free assembly and protest. In many cases, this will involve ensuring that the determination of the parades commission is complied with.
- 13.83 Police officers can often resolve situations of potential conflict by use of good interpersonal skills. In balancing the rights of protestors with others in the wider community, officers should use mediation and negotiation skills before recourse to the application of force.
- 13.84 Article 11 - Rights to Freedom of Assembly and Association is considered one of the foundations of a democratic society, and therefore it is not to be restrictively interpreted. Provided there is peaceful and lawful intent, protestors can expect to exercise this right without interference from police or other persons. Police officers should, therefore:
- Refrain from interfering with the freedom of assembly; and
 - Ensure that those who wish to exercise this freedom are able to do so.
- 13.85 Protestors who do not have a peaceful intent cannot claim the protection of Article 11.
- 13.86 Police officers need to make a judgement when confronted by street protestors. There is a balancing of rights required with protestors on the one hand and citizens wishing to go about their daily business on the other. In *MG -v- Germany*, for instance, protestors at a military base blocked the road for 12 minutes in every hour. It was held that the arrests and convictions of the protestors were justified because the blocking of the road caused more obstruction than would normally arise from the exercise of the right to peaceful assembly. Some obstruction is therefore legitimate if considered reasonable in the circumstances. However, each incident should be considered individually and if appropriate, police officers should respond promptly to clear obstructions on main arterial routes, obstructions in the vicinity of airports, ports, hospitals, sectarian interfaces and other key locations. General guidance on civil emergencies (available on Emergency Planning pages on PoliceNet) outlines in some detail the routes that are essential to maintaining the province's infrastructure.

- 13.87 It is not compliant with the Human Rights ethos to create a prescriptive list of actions for response to all protest activity. Each situation must be considered individually, bearing in mind the principles of necessity and proportionality. The following paragraphs outline the action that officers should consider in a National Decision Model response to protest activity.
- 13.88 If protest action is anticipated, local commanders should prepare comprehensive operational plans in accordance with ACPO APP – Public Order, this chapter, and where necessary, consult with the PSNI Legal Adviser and the PSNI Human Rights Adviser.
- 13.89 Police objectives in respect of this type of protest should be established at the planning stage if advance notice or information is received regarding the protest action. Police objectives should include the following:
- Maintenance of public safety.
 - Maintenance of officer safety.
 - Protection of right to freedom of assembly and association.
 - Protection of the right to freedom of expression.
 - Protection of the right to respect for private and family life.
 - Protection of the right to liberty and security.
 - Protection of right to freedom of thought, conscience and religion.
- 13.90 Where police have not had prior notification of protest activity, local commanders must ensure that Command and Control systems are quickly established for the police response. In areas where spontaneous protests are more frequent, local commanders should consider the development of contingency plans.
- 13.91 A press/media strategy to inform the public about the protest and if appropriate the intended police response, must be formulated at the earliest opportunity.
- 13.92 Initial police action should, where possible, be restricted to attending the site of the protest and assessing the situation to establish the necessity for any further police action.
- 13.93 Where practicable and appropriate, the Bronze Commander (or senior officer present) should identify the organiser(s) and request that the protest ceases to obstruct the thoroughfare. Organiser(s) should be advised that the activity might lead to persons being prosecuted for offences committed.
- 13.94 Unless public safety issues prevail, police should facilitate the protestors for a reasonable period of time. Consideration should be given to working in partnership with the organisers to facilitate the protest within agreed parameters

of duration, timing and exact location (within the parameters set out at 13.93 – 13.94 above). It may be appropriate to restrict the protest to the footpath or a part of the road to enable the continued movement of traffic and pedestrians not involved in the protest.

- 13.95 Evidence Gathering Team(s) should be deployed whenever possible, especially if it is anticipated that force may be used by police and/or protestors or arrests are likely to be made.
- 13.96 A warning should be given before police resources are deployed onto a road as follows:

GENERAL WARNING

“Attention, attention this is a police message.
You are causing an unlawful obstruction of the road/thoroughfare. I require you to move so that you are no longer causing an obstruction. Please move now. Failure to move may make you liable to arrest. Force may be used.”

- 13.97 Give a reasonable time to allow persons the opportunity to move then arrest and move.

INDIVIDUAL WARNING

“You are committing an offence ‘.....’
If you do not move now you may be arrested.
Please move now.”

- 13.98 Give a short time to allow persons the opportunity to move, then arrest and move.

- 13.99 Police deployment onto a road prior to the warning could remove liability from the protestors, as police may already obstruct the road at the time of the warning. For a successful prosecution police may have to observe that traffic flow had been obstructed or would likely have been obstructed by the protestors. If a police cordon is put in place prior to the road being blocked by the protestors it may be difficult to prove the highway had been obstructed by the protestors rather than by the police. (R - v- Rice and others.) Note should be taken of the following (by Evidence Gatherers if available):

- Exact location, time and date of delivery of message.
- Content of message.
- Method of delivery (i.e. verbal, aided or unaided).
- Identity of officer giving warning to the crowd.

- The response of the person; (if any).
- Position and numbers of protestors before and after warning.

13.100 The Bronze Commander (or senior police officer present) should ensure that records, including timings, are kept of any additional protestors joining the main group. Evidence should be recorded which shows common purpose with the original protestors.

13.101 Once it has been considered appropriate to use force for the purpose of removing protestors from the thoroughfare, commanders should select an appropriate tactic, bearing in mind the principles of necessity and proportionality. In removing protestors from the thoroughfare, officers should consider that protestors might fall into the following categories:

- **Compliant protest** – includes those protestors who agree to remove themselves from the thoroughfare when warned that they are committing an offence and force may be used to remove them.
- **Passive protest** – includes those protestors who will not remove themselves from the thoroughfare but will not resist police action to remove them.
- **Active protest** – includes those protestors who will attempt to resist attempts to remove them but will not actually strike out at officers attempting to remove them (example – protestors linking arms to prevent removal by police).
- **Violent protest** – includes those protestors who will pro-actively use violence to prevent police from approaching them for the purpose of removal and includes striking out at police.

13.102 In addition to the above-mentioned categories of protestor, police need to be aware of the increasing trend towards what is commonly known as 'direct action'. Most protestor groups use Non Violent Direct Action (NVDA) whilst others, who do not accept the law as 'their law', feel the police using force to remove them are acting unlawfully. As such, the use of force against police is seen merely as self defence to prevent the police's unlawful acts.

13.103 A tactic increasingly used by protestor groups involved in 'direct action' is the 'lock-on', which is basically a delay mechanism used to increase the length of time and resources used to remove them.

13.104 One or more protestors fix themselves to a location of strategic importance by means of a device or piece of hardware, as part of direct action, in an attempt to stop or delay an event/action or to gain maximum publicity for their cause. They can also be referred to as lock-downs, lock-boxes or dragons. The main principle behind a lock-on is to create an immovable object that cannot be removed without specialist equipment.

- 13.105 Lock-on attracts media interest thereby raising the profile of their cause. Protestors are fully aware of the need for officers to be specially trained in removal of lock-on. They are aware of relevant legislation and look to ensure police comply with health and safety legislation along with an appropriate and proportionate response.
- 13.106 A number of officers attached to Combined Operational Training (Public Order, Steeple) have been trained to deal with 'direct action' protests and should be utilised if such events occur. Whilst there is currently no definitive national guidance in place for dealing with protestor lock-on, police action will follow the advice contained in ACPO APP – Public Order. Further information on 'Dealing with the Removal of Protestors' can be accessed through the National Policing Improvement Agency (NPIA) response to the Faslane 365 protest, outlining best practice. (Available on the CMDU intranet site).
- 13.107 In addition to the specific reference to 'direct action' in paragraphs 13.102 – 13.106, Commanders should be aware that the removal of protestors involved in any active and/or violent protest could take a considerable period of time. The National Public Order Training Curriculum contains the ACPO guidelines for such situations. Commanders should consider all available tactical options including water cannon (when available) and consult with a Public Order Tactical Adviser.
- 13.108 The legal basis for police action in relation to obstructive protest activity on roads and other public thoroughfares includes, but is not restricted to, the following:
- Obstructive Sitting, etc, in Public Place, Article 20(1) Public Order (Northern Ireland) Order 1987:
"A person who, by sitting, standing, kneeling, lying down or otherwise conducting himself in a public place, wilfully obstructs or seeks to obstruct traffic or wilfully hinders, or seeks to hinder, any lawful activity shall be guilty of an offence."
"A constable may arrest without warrant anyone he/she reasonably suspects is committing or has committed an offence under Article 20."
 - Breaking Up Public Procession, Section 14(1) Public Processions (Northern Ireland) Act 1998:
"A person who for the purpose of preventing or hindering any lawful procession or of annoying persons taking part in or endeavouring to take part in any such procession:
hinders, molests, or obstructs those persons or any of them;
acts in a disorderly way towards those persons; or
behaves offensively and abusively towards those persons or any of them,
shall be guilty of an offence."

A constable in uniform may arrest without warrant anyone he/she reasonably suspects is committing an offence under this Act.

- Causing Danger to Road Users, Article 33 Road Traffic (Northern Ireland) Order 1995:

“A person is guilty of an offence if he intentionally and without lawful authority or reasonable cause:

causes anything to be on or over a road; or

interferes with a motor vehicle, trailer or cycle; or

interferes (directly or indirectly) with traffic equipment,

in such circumstances that it would be obvious to a reasonable person that to do so would be dangerous.”

- 13.109 Article 26 Police and Criminal Evidence (NI) Order 1989 provides the power of arrest for the offences listed above.
- 13.110 Other offences such as Disorderly Behaviour and Provocative Conduct [Articles 18 and 19 Public Order (Northern Ireland) Order 1987] and Obstructing the Highway [Article 88 The Roads (Northern Ireland) Order 1993] may also be relevant.
- 13.111 Breach of the Peace – Officers are required to balance between the various rights and freedoms contained within the ECHR and the need to prevent disorder. In the case of Steel and others –v- UK it was found that there had been a breach of Article 10 ECHR when police arrested the persons for breach of the peace. The applicants had been picketing an arms fair in London using banners and leaflets. The police action was deemed to have been a disproportionate response to the fear of disorder. Officers are reminded, therefore, that it is important to recall the test of ‘necessity’ under the Convention. This test, which is applicable to any decision to arrest or exercise powers in respect of protest activity, implies a pressing social need, including ‘clear and present danger’. Only when these criteria have been met, will arrests for Breach of the Peace comply with ECHR.
- 13.112 Commanders at all levels must be aware that the removal of protestors involved in active and violent protest can be physically demanding, depending on the tactic employed. In some tactics police officers will be required to use manual handling techniques to remove uncooperative and often violent protestors. This places police officers in a potentially violent and confrontational situation. Where it is reasonably foreseeable that protestors may become violent, then the hazards and associated control measures must be included in the risk assessment for the specific event/parade.
- 13.113 All tactical options, which are being considered for the removal of protestors, must be fully assessed, taking into consideration all reasonably foreseeable hazards. All control measures identified must be commensurate with the risk. If

personnel are being deployed to remove protestors, they must be suitably trained and equipped for such tactics.

- 13.114 As part of the identified control measures, steps must be taken to ensure that adequate arrangements are in place for the treatment of injuries to police and others. This would include arrangements for the evacuation of injured to hospital, adequate numbers of police competent in First Aid and adequate First Aid Kits/Supplies. See Appendix 'I' – Provision of First Aid During Planned Events, Anticipated Public Disorder Incidents and Spontaneous Incidents.

Procedures and guidance regarding deployment of Public Order Tactical Advisers

Background

- 13.115 Public Order Tactical Advisers (POTAs) are accredited to the national standard and hold evidence of their competence. POTAs are available to advise commanders during the planning and operational implementation of public order events. The POTA for a planned event should not be involved in any other aspect of the operation.

Operational Planning

- 13.116 The use of POTAs should be considered at the outset of the planning stage of every policing operation that may present public order concerns. When a POTA is requested at the outset of the planning phase of an operation, it is important that they are involved in the relevant planning meetings thereafter, including Gold and Silver level meetings. The decision not to involve a POTA, and the reasons for not doing so, must be documented by the commander in charge of the operation.

Tactical Advice

- 13.117 A POTA can provide information and recommend a range of options along with their potential advantages and disadvantages.
- 13.118 The POTAs are able to provide advice on a wide range of tactical issues including:
- Risk assessment procedures.
 - Use of legislation and policy.
 - Health and safety issues (protective equipment etc).
 - Gold/Silver/Bronze command structure.
 - Development of strategy and tactics.

- AEP launcher/Water Cannon deployment.
- Post-event review.

13.119 POTAs provide advice but do not make operational decisions. The responsibility for the use of the advice and for specific actions taken rests with the Operational Commander. The responsibility for the validity and reliability of the advice rests with the POTA. During operational deployments, POTAs can accompany Silver and Bronze Commanders in order to provide ongoing assistance. The role of a POTA does not usurp the role, responsibilities and functions of commanders at the respective levels.

Deployment of Tactical Advisers

13.120 Prior to commencement of the planning phase of an operation in which the use of a POTA is envisaged, the Operational Commander should arrange their attendance either from within the region or from Combined Operational Training (COT). COT operates a call-out system for POTAs. If a POTA is required from COT, a written request should be submitted to Inspector in charge Public Order Training on Form 88 (available on PoliceNet). This should contain brief circumstances of the operation, with specific reference to the numbers of police involved and any previous history of disorder. Where a policing operation is envisaged over a prolonged period, this should be indicated on the request to Inspector, COT. After assessing the request, COT will provide as many POTAs as necessary to allow for rest periods etc. Inspector, COT will consider the request and allocate COT resources as appropriate. In the event of conflicting requests being made, Inspector COT will prioritise the deployment of POTAs. In the event of spontaneous public disorder occurring, Operational Commanders may request the deployment of POTAs to assist at the incident. A 24-hour call-out system is in operation and the on-call officers can be contacted via Urban Call Management Centre (UCMC).

Records

- 13.121 An audit trail must be maintained of all decisions made in respect of the circumstances in which police found themselves, the planning processes, the tactical options considered and the basis for the selection of the preferred option(s). The recording of information must be an integral part of the planning process. Use of the Event Policy Book is mandatory for all public events, including public processions, and is considered best practice for all other incidents relating to public disorder.
- 13.122 Individual officers must document the justification for their actions and decisions, particularly with regard to the legal basis, proportionality and necessity aspects. POTAs will maintain a record of the options outlined and advised by them. Where practicable, they will also maintain a record of the decisions selected by Operational Commanders. Where a POTA has been involved in the planning of an operation, or in giving advice during the operational phase, that officer should be involved in the post event review that is undertaken.

Criminal Justice Strategy and Role of the SIO

Role of the SIO

- 13.123 The role of the SIO is the management and investigation of crime. Events and incidents which present a risk to public safety or a potential for serious disorder may present unique challenges for an SIO.
- 13.124 These include the:
- Potential scale of investigations.
 - Diversity of offences.
 - Difficulties of scene management.
 - Resource implications.
 - Likelihood of high profile court proceedings.
 - Management and handling of witnesses and suspects.
- 13.125 Advances in information technology, scientific practice and investigative techniques now applied to criminal investigations should be used when dealing with incidents of serious disorder or public safety.
- 13.126 It is recommended that the contents of this section be read in conjunction with the ACPO murder investigation guidance (ACPO APP – Investigation) and MIRSAP Manuals.
- 13.127 The Police Service of Northern Ireland public order media strategy is outlined at paragraphs 13.172 – 13.178 post.

Appointment of the SIO

- 13.128 For any policing operation, consideration should be given to the appointment of an SIO at an early stage in the planning process. The SIO may be a member of the Gold Commander's strategic group for planning purposes, but during the event, the SIO should report to the Silver Commander as a Functional Crime Bronze with responsibility for the management and investigation of crime.
- 13.129 The SIO is responsible for ensuring that all crime investigation policy decisions are recorded throughout the event, to ensure that an audit trail exists. Such decisions will be recorded in the Event Policy Book.
- 13.130 Post event, the SIO may assume the role of Silver for the purposes of any investigation(s).

SIO: Pre-event responsibilities - Setting out the Criminal Justice Strategy

- 13.131 The Senior Investigating Officer will have responsibility for evidence gathering and the investigation of incidents linked to the police operation. One of the main roles of the SIO will be to determine the Criminal Justice Strategy for the event.
- 13.132 The SIO should have Evidence Gathering Teams, Forward Reception Teams and an Enquiry Team including CID personnel, under his/her command and direction. A Deputy Senior Investigating Officer (D/SIO) may also be appointed to facilitate 24-hour coverage. The SIO should be a functional Bronze Commander for the operation and the SIO and/or the Deputy/SIO will be involved in planning meetings.
- 13.133 The purpose of the Criminal Justice Policy should be to obtain **THE BEST EVIDENCE OF THE WORST OFFENDERS FOR THE MOST SERIOUS OFFENCES** through the optimum use of resources and technology. Its object will be to ensure the efficient processing of prisoners into the court system. Where appropriate, remands in custody may be sought. Liaison should be maintained with the Northern Ireland Court Service as to the availability and suitability of Courts.
- 13.134 The SIO's role will also be to:
- Determine a criminal investigation plan to support the strategy.
 - Determine prosecution policy within case disposal guidelines.
 - Establish liaison with key members of the Public Prosecution Service (PPS).
 - Determine the available budget.
 - In liaison with the Press Officer, determine the crime media policy within the constraints of the overall media strategy.
 - Ensure communications systems meet the requirements of the investigation.
 - Determine resources required.
 - Obtain necessary authority levels.
 - Develop working protocols and maintain close liaison with the Intelligence Manager.
 - Identify and brief key staff to ensure investigation can be activated if required.
 - Decide on contingencies to deal with crime scene management.
 - Identify file preparation team(s).
 - Consider the implications of civil litigation.

13.135 The individual circumstances or incident may require the appointment and briefing by the SIO of:

- Hospital teams.
- Prisoner reception teams.
- Interview teams.
- Disclosure and exhibits officer(s).
- File handling teams.

SIO: Responsibilities during the event

13.136 The intention of the Criminal Justice policy should be to process offenders in an appropriate manner. Where the evidence and nature of the offence(s) is such that a remand in custody is proportionate, then it may be sought in accordance with current service policy. Offenders may be brought before a Court to facilitate a remand in custody or for the imposition of relevant Bail conditions.

13.137 The SIO and Enquiry Team should maintain close contact with the Evidence Gathering Teams. Effective briefing and debriefing of those involved in the operation will enhance this.

13.138 The SIO should also liaise with other departments such as the Media and Public Relations Department, C3 and the Police Ombudsman's Office as necessary. (Out of hours, the Police Ombudsman's SIO can be contacted on 07769 974 977.)

13.139 The SIO will direct follow-up investigations based on evidence gathered and will exploit available intelligence. Every effort will be made to identify offenders at the time of offending and effect their arrest (if lawful and proportionate etc) at that time. Where this is not possible, a proactive policy will exist to place offenders before the Court.

13.140 Evidence gathering will be designed to optimise the collection of the best available evidence and will include:

- An overview of the event and the build-up to any episode of disorder – scene setting.
- Collection of pertinent evidence to later identify potential offenders – physical description, clothing etc.
- Evidence to directly link offenders to an episode of disorder or other criminal offences.
- Where applicable, evidence of injuries sustained or damage caused as a result of disorder.

- As far as possible, any discharge of AEP, the circumstances leading up to and at the time of the discharge, and warnings given by police to those involved in the disorder.

13.141 The SIO and the Enquiry Team will have access to video footage from various sources. This may include the Police Air Support Unit, 'heli-tele' and any 'live time' downlink facility. All available evidence must be forwarded to the SIO properly dated and time logged, for evaluation and necessary action by the Enquiry Team.

13.142 The SIO's role will also be:

- To be the crime advisor.
- Together with the Silver Commander to decide if the risk of using plain clothes officers on patrol during disorder is justified in the particular circumstances.
- Co-ordinate major enquiry, file preparation teams and crime scene managers.
- Maintain liaison with the Intelligence Manager.
- Liaise with representatives of specialist investigation agencies.

Hospital Teams

13.143 A nominated officer should be placed in charge of making arrangements for coordinating hospital team(s) with a view to:

- Ensuring injured officers' welfare.
- Obtaining evidence from victims, statements, photographs, exhibits (forensic and other), crime reports, medical evidence.
- Identifying injured offenders.
- Liaison with SIO.

Prisoner Reception

13.144 Ensure clear guidelines exist as to how prisoners are received and handled.

13.145 A dedicated charge centre(s) should be identified and suitably staffed to ensure the efficient processing of prisoners. This should assist the swift return of operational officers to the event. If a large number of arrests are expected, then a forward reception point should be considered.

13.146 Standard documentation and arrest pro-formas, together with an early photograph of arresting officer and prisoner, will aid the administration of

prisoner processing. Clear procedures are required for the handling and disposal of such photographs.

Interview teams

- 13.147 The SIO will ensure that the optimum use is made of all available resources. CID personnel attached to the Enquiry Team will be available to deal with more serious offenders/offences. The SIO or D/SIO will liaise with Gold Command in relation to the investigation of any serious/critical incident, should such occur. Gold Command will determine at what stage a Regional SIO will be appointed.
- 13.148 There is a need for experienced investigators, wherever possible, to interview prisoners, irrespective of the grounds for their arrest.

Disclosure and Exhibits Officer(s)

- 13.149 The implications of disclosure of sensitive material should be considered at an early stage. It is the responsibility of the SIO to decide whether one or more disclosure and exhibit officers should be appointed.

File handling teams

- 13.150 Protocols should be established with the PPS and the courts. Files should be prepared in line with those agreements, by experienced case preparation teams. Early convictions at court may act as a deterrent.
- 13.151 Consideration should be given to the opening of dedicated courts to deal with large numbers of arrests.
- 13.152 The SIO should, having regard to the scale of the event, decide whether to appoint a manager for the File Handling Team or its local equivalent.

Prosecutorial Advice Regarding Evidential Issues Relevant To Files Submitted Supporting Charges Of Public Order Offences

Individual files submitted in respect of each defendant

- 13.153 Such action ensures that the actions of individuals are not lost amongst the volume of people being reported on one large file. Such a large volume file also takes some time to prepare and submit, thereby losing the impact of relatively swift justice.

Two videos for evidential purposes

- 13.154 If possible, a second video, which would be pertinent to the individual under investigation and would seek to put that person in the context of a series of events, would be beneficial. This would entail officers taking any opportunity offered to gather evidence on individuals clearly involved in major disorder over a period of time.

Prosecution Files

13.155 Prosecution files should contain the following information in relation to the overall disorder:

- The extent and cost of the damage caused; and
- Evidence of injuries suffered by persons, both police and civilians.

A copy of the log relating to the overall disorder.

13.156 There may be some issues about admissibility, i.e. the controller who logged the incidents did not actually witness the events he/she recorded. However, the view of the PPS staff is that the log should be on the file so they can consider it. A statement of evidence from the senior officer on the ground outlining events and developments as he/she saw them can be given.

Sample statements from 4 - 5 police officers, who were injured (if applicable) during the disorder.

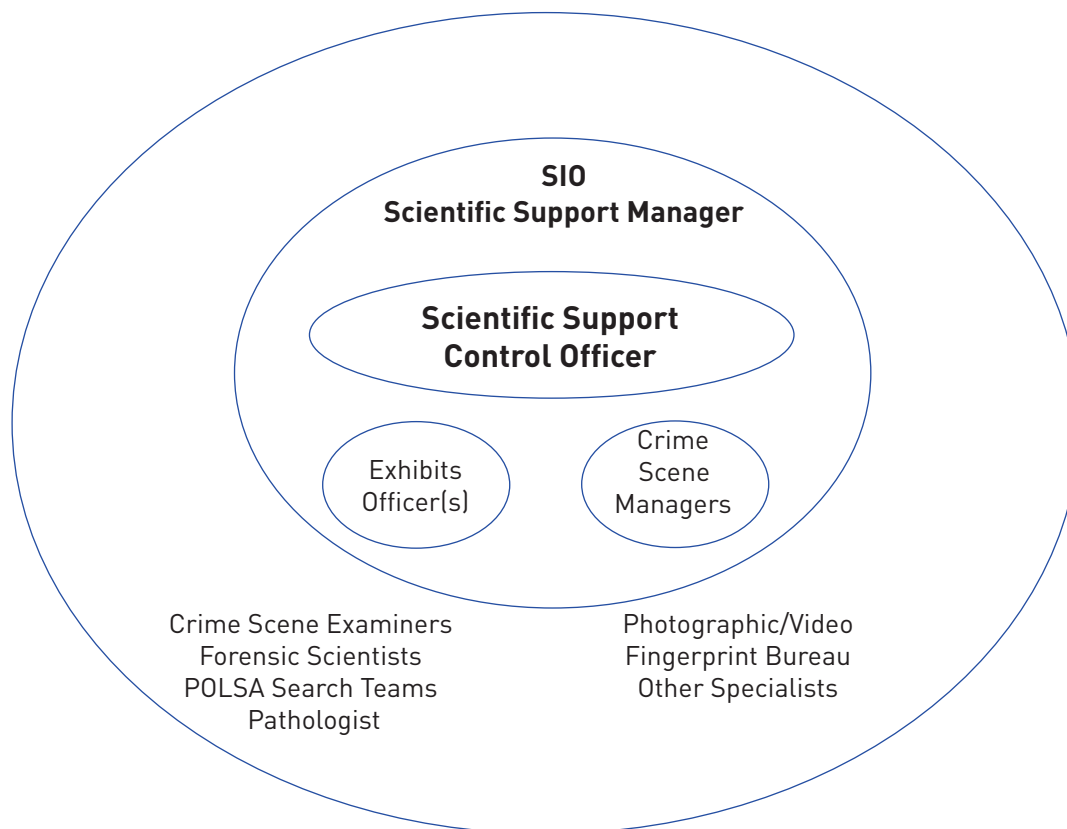
13.157 The injuries need not directly relate to the individual being reported but would be used to indicate the extent and ferocity of the overall disorder.

13.158 The adoption of this advice by police in cases where they feel that the more serious public disorder charges are warranted may well assist the Prosecutors in making a suitable direction by providing sufficient evidence to indicate why a particular incident, above most others which have occurred over the years, deserves prosecution on indictment before the Crown Court.

Crime Scene Management

13.159 Figure 2 below indicates the structures for crime scene management.

Figure 2



13.160 The preservation of any crime scene must be balanced with the needs of the ongoing police operation as dictated by the Silver Commander. The SIO will advise the Silver Commander on the need to preserve a scene. The Silver Commander will advise on the feasibility of preserving that scene with current resources. The decision must be recorded for the audit trail.

SIO: Post event responsibilities

13.161 The SIO's post event responsibilities will be to:

- Manage the investigation of crime and lead the teams involved.
- Ensure that evidence is preserved which will assist in the processing of any claims lodged through the Compensation Agency under the Northern Ireland Criminal Injuries Compensation Scheme (2002).
- Ensure that accurate records of damage are kept to combat fraudulent claims.
- Decide when scenes can be released from police control.

- Continue liaison with the Intelligence Manager to ensure that all information and intelligence is available to the enquiry.
- Maintain close liaison with the PPS.
- Determine arrest policy within the constraints of the agreed strategy.
- Maintain close liaison with Press Officer.
- Ensure close liaison with the Police Ombudsman's Investigators where necessary.
- Contribute to the event or incident debriefing process.

Post incident/event investigation

13.162 The Gold Strategic Group should decide the extent of any post-event investigation, taking into account such factors as:

- Scale of incident(s).
- Number and types of offences committed.
- Media interest.
- Public opinion.
- Resource implications.

13.163 On conclusion of the event all materials should be catalogued and retained in line with service policy.

Events and incidents where loss of life occurs

Contingency liaison

13.164 Procedures to be adopted by each emergency service to a major incident should be developed and documented in order to ease their method of working in conjunction with each other.

13.165 Officers should be aware of Service policy with regards to agreed protocols with the Police Ombudsman when joint crime scenes are involved.

13.166 HM Coroner is ultimately responsible for identifying the deceased and establishing the time and cause of death. It is therefore recommended that officers regularly employed as SIO should have frequent meetings with coroners in their own area to ensure awareness of the coroner's needs (for example, where bodies are not to be moved unless unavoidable).

Appointment of Staff

13.167 When necessary, by appointing another senior detective (known as the identification officer) at an early stage, the SIO will be free to concentrate on the investigation. Appointments to be considered are:

- Body and property recovery teams.
- A casualty bureau.
- Press and media support.
- Mortuary teams.
- Scientific support.

13.168 The Major Disaster Advisory Team (MDAT), Operation 'Goliath', a nationally recognised ACPO operation, is a database containing details of personnel, who can be called upon as required to render assistance in dealing with major disasters.

13.169 Reference to Operation 'Goliath' can be found in the ACPO Emergency Procedures Manual. The database is retained at the National Operations Faculty, Bramshill and can be activated on an ACPO officer's authority.

Control of the scene

13.170 The bodies of victims should not be moved unless it is necessary to rescue survivors. Once life-saving activity has ceased the whole area should be preserved as a crime scene, so that vital evidence is not lost or destroyed.

Body recovery

13.171 Police should co-operate with the coroner in respect of the following matters:

- The control of the remains of the deceased.
- The identification of those remains.
- Informing the next of kin.
- Their release to the next of kin with the coroner's consent.

Media Policy

13.172 The Code of Ethics includes a requirement that police officers deal with the press within the guidelines of the Chief Constable's Media Strategy. Details of those guidelines are set out within the Media Guide.

- 13.173 Police Officers and civilian staff have two balancing duties – to be open with the public and media as part of their responsibility to be transparent and accountable, and to protect confidential information relating to individuals or information about police operations.
- 13.174 Individual officers or staff of all ranks should not brief the media without clearance. Approval should be sought from the Media and Public Relations Department who will consider and advise on the wider implications of commenting or making a statement. The Department will provide lines to be taken on corporate issues.
- 13.175 Where possible, it is sensible to involve the Department at an early stage in the planning of an operation that is likely to attract significant public interest.
- 13.176 Officers intending to brief the media at the scene of an operation or incident should always ensure the relevant Press Office is informed prior to the briefing. The Department will make every effort to provide a Press Officer to manage the media at the scene.
- 13.177 In all cases the Senior Investigating Officer must clear comments that are made about serious crime investigations. At the start of all major investigations, in line with national standards, SIO's or Gold Commanders should set a clear media strategy.
- 13.178 Further advice can be found in the Media Guide.

Reference material

- 13.179 This Guidance should be read in conjunction with:
- ACPO APP – Intelligence Management regarding the National Intelligence Model.
 - Service Procedure No 10/2012 - Critical incident management and community impact assessment.
 - Service Procedure No 14/2008 - Public Processions (NI) Act 1998 and the Parades Commission.
 - PSNI Manual of Policy Procedure and Guidance on Conflict Management.
 - ACPO APP – Public Order.