



ACPO HOMICIDE  
WORKING GROUP

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**HOMICIDE AND  
MAJOR INCIDENT  
INVESTIGATION**

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## About the Journal

*The Journal of Homicide and Major Incident Investigation* encourages practitioners and policy makers to share their professional knowledge and practice. The journal is published twice a year on behalf of the Association of Chief Police Officers (ACPO) Homicide Working Group (HWG).

It contains papers on professional practice, procedure, legislation and developments which are relevant to those investigating homicide and major incidents.

All contributions have been approved by the Editorial Board of the ACPO HWG. Articles are based on the authors' operational experience or research. The views expressed are those of the authors and do not represent those of ACPO. Unless otherwise indicated they do not represent ACPO policy. Readers should refer to relevant policies and practice advice before implementing any advice contained in this journal.

The Journal is edited by Peter Stelfox on behalf of the ACPO Homicide Working Group.

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## About the ACPO Homicide Working Group

The ACPO Homicide Working Group (HWG) is part of the Violence Portfolio within ACPO Crime Business Area. It develops national policy and practice for the investigation of homicide, major incidents and other serious crimes.

The HWG also supports and promotes the training and professional development of practitioners and provides oversight of levels three and four of PIP. It encourages research into homicide and major incident investigation and fosters good working relations between practitioners, policy makers and academics in this field. Membership of the HWG is drawn widely from the Police Service and partner agencies. It comprises the following:

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## Editorial: What Price Professional Practice?

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Welcome to the latest edition of the *Journal of Homicide and Major Incident Investigation*. At a time of widespread and significant changes in policing, the *Journal* has not escaped without a few cuts.

The NPIA, which has produced the *Journal* for the last seven years on behalf of the ACPO Homicide Working Group, is no longer able to do so. Their work has been invaluable in establishing the quality of the *Journal* and building its reputation. The HWG are grateful to all of those involved at NPIA and wish them well for the future.

The HWG will now be producing the *Journal* itself, but the high cost of printing means that electronic publication is the only option for the future and the new layout with hyper-links reflect this change. One advantage of this is that it will now be easier to circulate the *Journal* to a wider audience, and we encourage forces to do so by making it available on their force wide systems. We have also taken the opportunity to include regular book reviews.

Despite these changes, the aim of the *Journal* remains the same: to improve investigative practice by sharing individual experience and research. For many years the HWG has been the driving force behind improvements in investigative practice in the UK. The bedrock of these is: a range of procedural manuals, including the Murder Investigation Manual and MIRSAP; the SIO Development Programme; PIP levels 3 and 4: the annual SIOs Conference and the *Journal*. None of these have been easy to develop and some have taken many years of hard work, usually by volunteers taking on extra work in addition to their busy roles in force. Despite the difficulties, these things have been accomplished because those involved have always believed that good investigative practice is not simply a pious aspiration, it is a hard-nosed professional ethos. We have

learned the hard way that poor quality investigations can quickly spiral out of control with unpredictable and costly consequences.

The HWG remains committed to doing everything it can to promote good practice. Innovative work is currently under way to find ways of working differently and more cost effectively, exploring the savings that can be made through MIT collaboration, promoting innovation in forensic and other investigative techniques and the better use of ANPR and much more. All of these will make a difference.

The *Journal* provides individuals with a way of contributing to this work by sharing their experience or research. These do not have to be high profile cases or the results of long years of study. the main thing is to identify things which are of value or interest to other SIOs. Articles on any relevant subject are welcome and ideas or proposals can be discussed with the editor.

We hope you enjoy the *Journal* in its new format and look forward to hearing your suggestions for future articles.

## The Sally Pearson Memorial Award

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The Sally Pearson Memorial Award is made each year by the ACPO Homicide Working Group to encourage practitioners to research and write on subjects relevant to homicide and major incident investigation.

Until her death, Sally Pearson was editor of the Journal of Homicide and Major Incident Investigation and made a significant contribution to the development of the Murder Investigation Manual and other works for SIOs. She died of cancer at a tragically young age and the award was suggested by her friends and colleagues as a permanent tribute to Sally and the contribution she made to the development of investigative practice.

This year's award has been won by Martin Bottomley and Chris Holt and a paper by them on the subject of their research is published over leaf.

In making the decision, the selection panel felt that the proposal from Martin Bottomley and Chris Holt best reflected the aims of the award because they both have extensive experience in homicide investigation and have used that to develop a practical research agenda in an area of significant importance to all SIOs.

## Familial DNA: a relative success?

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**Martin Bottomley, Head of GMP Review Section and retired Detective Superintendent**

**Chris Holt, Detective Sergeant, GMP Major Incident Team**

### **Abstract**

This article explains the principles of familial DNA searching and how SIOs can benefit from early consideration of this technique in major crime investigations. It also seeks to dispel the myths surrounding familial DNA investigations by providing a factual summary of both success rates and the routes to success. The authors include a case study where an enhanced prioritisation methodology led to the detection of two linked abductions of young children.

Martin Bottomley is the Head of the Greater Manchester Police Investigative Review Section. A retired Detective Superintendent who was Head of the Major Incident Team, he now conducts reviews of historic investigations, live undetected murders, serious case reviews and domestic homicide reviews. He was the Senior Investigating Officer for Operation Elegant which used familial DNA searching to successfully identify the offender in two linked attacks on children, which is described in the case study below.

Chris Holt is a Detective Sergeant with the GMP Major Incident Team. Since 2003, while seconded to the National Crime Faculty and the NPIA Crime Operations Support, he has been involved in the development of the tactics of familial DNA searching and was one of the co-authors of the ACPO guide to the Tactical Use of Familial DNA Searching published in 2006. He is a co-author of the (2011) NPIA familial DNA guide. Chris has given advice to and supported over 50 investigations using the tactic and has presented on familial DNA searching across the UK as well as to the European DNA conference, the Interpol DNA conference and at the FBI Academy.

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## **1 History and principles**

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Familial DNA searching is a tactic which often splits the investigative community. Some have tried it and have been unsuccessful and others talk of vast expense for no result. Some describe it as a last resort, or a fishing expedition. The reality is that across the UK since 2003, familial DNA searching has to date been directly responsible for the detection of over 80 of the most serious of offences and we are the envy of the forensic DNA world.

This tactic is available to SIOs in serious crimes where there is a DNA profile attributable to the offender but the offender's DNA is not on the National DNA Database (NDNAD).

The tactic works because DNA is inherited from our parents, half from each. Siblings inherit their DNA from the same two parents and so generally we share more DNA with our siblings than with unrelated strangers. This means that if a parent, child or sibling is on the NDNAD, it may be possible to identify the source of a DNA sample through them.

Familial DNA searching for investigative purposes provides the SIO and the investigation team with two lists of nominals. One list comprises persons who could be either the parent or the child of the unknown offender and all these persons will share half of their DNA with the offender. The other list is made up of persons who could be a sibling of the offender and these persons will share more than an average amount of DNA with the unknown offender.

Within the UK, familial DNA searching became a viable investigative tactic in 2003 when both the Forensic Science Service and Orchid Cellmark developed computerised systems for performing the search of the NDNAD. Prior to 2003,

some familial searches had taken place but they were done manually, could only reveal a limited number of potential parents or children of the unknown offender selected from a limited subset of the National database, usually those persons swabbed within the force where the crime occurred. Nonetheless, there was some success as with Operation Magnum in South Wales where, in 2001 Joseph Kappan was identified as the killer of three women in the early 1970s.

However, in 2003 the process became automated and this provided the opportunity to not only search the whole of the NDNAD but also to identify lists of potential siblings in addition to potential parents and children.

Since 2003, the tactic has developed and been refined from what was originally a somewhat broad brush approach with the DNA similarities being the overriding factor in the search for relatives to what is now a much more focused and streamlined approach which targets only the relatively few nominals most likely to be related to the offender.

## **2 Does it work?**

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Everyone will have their own measure of acceptable success rates but here are the statistics for the UK 2003-2011.

To date, over 200 investigations have commissioned a familial search of the NDNAD. Forty four offenders have been identified as a direct result of those searches. The success rate in these terms is approximately 20%. Of the 44 offenders identified to date;

6	Deceased at the time of identification
38	Prosecuted
35	Convicted
1	Acquitted (a rape case involving consent issues)
2	Sub judice

Many of the 44 offenders committed multiple offences and so the total number of crimes which have been detected as a direct result of familial DNA searching is 83. These are:

15	Murders
52	Rapes
4	Offences relating to child abandonment
2	Abductions
7	Armed robberies
1	GBH
1	Burglary
1	Concealment of birth

These facts often come as a surprise to those who have questioned the use of familial DNA searching as a viable tactic. Many of the ethical and political concerns about it seemed to diminish following a Parliamentary question by David Davies MP when these success rates were revealed publicly for the first time (Hansard 2010).

From an SIOs point of view, the technique can be considered to be highly efficient at identifying parents, children or siblings who are on the NDNAD. Early indications from research being carried out by the authors suggests that where a familial search is negative but the case is later detected in others ways, it is very rare for a parent, child or sibling to have been on the NDNAD at the time of the familial search. Put another way, the current evidence suggests that SIOs can be confident that if a relative is on the database, a familial search is likely to find them.

### **3 History of methodologies**

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From 2003 until 2007 familial DNA searching utilised a method known as the 'allele count' method. This method looked purely at how much DNA potential siblings shared and ranked them accordingly. Potential parents and children all shared half of their DNA with the offender and were of equal ranking. It was therefore difficult to know where to start with the parent/child list. Since 2007 a different method has been utilised known as likelihood ratio. This system looks not only at how much DNA is shared with the offender but how common the pieces of shared DNA are within the population, thus raising nominals who share rare DNA components with the offender towards the top of the list.

The question of whether 'likelihood ratio' is an improvement on 'allele counting' has been debated and there is now academic research (Hicks et al) to show that it is, but more importantly, the success rate has improved since its introduction. It is also true that likelihood ratio is used elsewhere in the world by countries seeking to develop a familial DNA search capability although it should be noted that many of these have taken good practice from the UK.

### **4 How do you make it work for you?**

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The most important question when discussing familial DNA searching is: "How do I achieve success?"

The first thing to say is that on occasions, the DNA will do it for you on the day you run the search. Six of the 44 offenders referred to above were the MOST genetically similar to the offender and appeared at the top of the list. When conducting a familial DNA search you examine the whole of the national database. Therefore, persons sharing DNA with the offender can come from any part of the UK. When you run a search and the person most similar also comes

from the town where the crime was committed you are entitled to get excited. If you are lucky enough to have this situation your familial DNA search will potentially solve your crime very quickly because the relative leaps off the page at you.

More often though, there will not be an obvious relative and you will have to prioritise the lists. Genetics are the keystone to doing this, but they are not the only consideration. You are looking for a relative of the offender. You know where the crime was committed. In basic statistical terms if two people live 150 miles away from each other, are they less likely to be related than two people living 10 miles apart? Yes they are (Champion, 2005, National Statistics 2010). Similarly, if two people are born 15 years apart are they less likely to be siblings than two people born 2 years apart? Yes they are (National Statistics, 2004). So we make use of this. It is of course possible that someone could live 150 miles away from a sibling who is 15 years younger than themselves. But this tactic is not about finding the impossible, it's about finding the offender because their sibling or parent or child is on the NDNAD, is the right age to be their relative and lives reasonably near to the crime scene as a result of that family cluster. In those cases, familial DNA can identify the offender.

So, both geography and age are utilised to supplement the original genetic based lists. The most advanced methodology for utilising genetics, age and geography together is the NPIA system described by Gregory and Rainbow (Journal of Homicide and Major Incident Investigation Vol. 7, Issue, 1). It is important to recognise that the location recorded on the NDNAD is where the individual was swabbed. The PNC contains more geographic data and the case study within this paper highlights the value of using that additional information.

## **5 Once the genetic lists are re-prioritised using geography and age what do you do next?**

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In most cases seeking to utilise familial DNA searching, the offender is male and so it may be possible to obtain a Y-STR DNA profile from the crime scene stain. The Y-STR profile is generally inherited unaltered from father to son. Thus, if a male appears on the familial lists as a possible parent, child or sibling of the offender, he, together with his biological father, his sons and his siblings, can be eliminated if his Y-STR does not match that of the offender. This method is commonly used to scientifically and in a very cost effective manner eliminate, or hopefully highlight families of interest. Where the nominal on the list is female and the Y-STR tactic is therefore unavailable, or a male nominal matches the crime scene Y-STR, further research of that individual is required.

The debate around online research of family trees and histories has continued since 2003. Experience to date has shown that online enquiries or covert enquiries with births, deaths and marriages are not 100% reliable and it is often necessary, in the end, to visit the nominal on the results list to properly establish their family tree. These persons are then visited and voluntary swabbed. The circumstances in Operation Elegant described below, whilst highlighting the point about the unreliability of covert research, also lent themselves to an overall covert strategy. Each case is different and the SIO will need to consider the best approach for their investigation.

## **6 How many nominals do you need to research?**

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When familial DNA searching was first considered as a tactic we had no idea how far down the lists it would be necessary to look in order to find the offender's relative. Now, eight years on and over 200 investigations later, we have a very good idea. The combinations of potential prioritisation factors change from

investigation to investigation but as a guide, all but 2 of the 48 relatives identified to date were within the top 30 of a list **prioritised** by the application of geography and age alongside the original genetic ranking. This means that, although the list of potential relatives first produced by the familial search may be large, the prioritised list is much more manageable.

This knowledge allows us to dispel one of the biggest myths and often the most inhibiting factor around commissioning a familial DNA search, i.e. that the SIO will be committed to researching and funding DNA analysis for potentially hundreds of nominals. Further research is being conducted by the authors of this paper which will provide SIOs with further empirical based advice regarding the most cost effective and value for money use of familial DNA searching.

## **7 When do you consider using a familial DNA search?**

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This is a much debated question. It is often seen as a 'last resort' tactic to be kept back until all other lines of investigation are exhausted. Yet, some SIOs have used the tactic early in an investigation and achieved a quick resolution to the investigation as a result. In May 2010 a 10 year old girl was abducted and raped in Lancashire. DNA was obtained which related to the offender and he was not on the NDNAD. The SIO commissioned a familial DNA search almost immediately and after some fast track prioritisation of the results lists by the NPJA and excellent work by the investigation team the offender was identified within a couple of weeks. He was not immediately local to the area (although he did have a previous address there). He may otherwise have remained at large for a considerable period of time, potentially committing further serious offences. The use of the tactic in this case also demonstrates the sometimes unseen value for money aspect of using familial DNA searching at an early stage.

## 8 Golden rules

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There are some rules to consider when embarking upon a familial DNA search:

*Golden Rule 1: If the offender does not have a relative on the NDNAD this will NOT work.*

This is a frustrating situation to be aware of and to be in because you never find out whether the offender has a relative on the database until you catch him or her and of course, there is absolutely nothing you can do to influence it. There has been consideration in the past to researching which type of offenders are likely to have a relative on the database, for example is a burglar more likely to be from a criminal family than a rapist?

Instinctively police officers may answer a hesitant yes to this question, but the research is not there to confirm or refute this theory and in any event, there are a number of relatives who have been identified and led to the identification of the offender for a serious crime who were loaded to the database for relatively minor offences such as public order or possess cannabis or for offences not obviously connected with a criminal family such as driving over the prescribed limit. This tends to suggest that this consideration should not influence the decision about whether to use familial DNA searching or not.

*Golden Rule 2: Everybody on the results lists definitely did not do it.*

This may seem obvious but it's easy to forget at times as many who have pored over the results lists and studied the names looking for a flicker of recognition will testify. Remember, the results lists comprise persons with half the DNA of

the offender (parent/child) or those who share more than the average amount of DNA with the offender (siblings).

*Golden Rule 3: You cannot be the same age as your parents or children.*

The age of potential relatives of an unknown offender is referred to within this paper as a relevant factor when prioritising the familial search results lists. The absolute importance and use of this is highlighted in cases where there is a reliable indication of the offender's approximate age. For example, if you are investigating a rapist who is believed to be in his 20s, persons who are genetically very similar and therefore appear capable of being his parents or children but are 25 years of age are actually very UNLIKELY to be related.

*Golden Rule 4: The investigation team need to take time to understand the science and what the search results lists are giving them.*

This can be a complex tactic at first sight and it's easy to lose the understanding of how the lists were compiled initially and also what the best method of using the lists should be. Advice is available from both your Forensic Service Provider (FSP) and the NPIA Crime Operations Support (COS) and you should seek their expertise.

The following case study demonstrates how the theory and practical advice described above led to the detection of two attacks on children.

## **9 Background and initial investigation**

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One evening in December 1999, fifteen year old 'Clare' was walking along a main road near to an exit slip road from the M62 motorway in North Manchester. The driver of a white box van stopped on the pretext of asking for directions. He forced her into the rear of the van, where he tied her hands behind her back and bound her feet using a ratchet-type strap. He then drove off, stopping to refuel the vehicle, before continuing his journey. A short time later, he stopped the van, climbed into the rear, undressed Clare and forced her to perform oral sex on him before anally raping her.

Following the attack, Clare was driven to Salford, west of Manchester, where she was released and was able to report the incident to the police. After a medical and forensic examination, she provided a description of the offender and his van. Subsequent forensic examination of crime scene samples revealed the offender's full DNA profile. However this did not produce a match on the DNA database.

A second offence occurred three months later on a Wednesday evening in March 2000. On this occasion, the driver of a white box van stopped his vehicle on a main road in East Manchester, purportedly to ask a twelve year old girl, 'Gemma', for directions to a local bread factory. The driver forced Gemma into the cab of the vehicle and drove off. He stopped briefly to place tape around her eyes and mouth, then continued his journey until he parked the van, placed his young victim into the rear, undressed her then indecently assaulted her and attempted to rape her. Following her ordeal, Gemma was placed into a car and the offender released her about a mile away from the abduction site.

Investigating officers immediately suspected that the cases may be linked, by modus operandi, description of vehicle and of the offender, and this was

confirmed when a full DNA profile developed from samples taken from Gemma matched the offender from the earlier attack.

Despite this breakthrough and extensive enquiries managed through a major incident room which remained active for a year, no suspect was ever identified and the investigation was shelved, undetected.

## **10 Operation Elegant**

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GMP's Cold Case Review Unit reopened the case in January 2007 and gained authority for a familial search of the DNA database. At that time, the relatively unsophisticated 'allele count' methodology was used to prioritise the list of 1,214 persons on the parent/child list and the 579 names on the sibling list.

Initial enquiries by detectives from the unit concentrated on seven individuals who lived local to the scenes of the abductions. Family trees were drawn up, relatives were swabbed and eliminated one by one.

Meanwhile, the method by which the Forensic Science Service searched and produced lists from the DNA database was being refined, and of course the database itself was growing at the rate of 40,000 profiles a month. A decision was therefore taken in late 2008 to re-run the search. This resulted in even longer lists, containing 9,911 names (parent/child) and 1,443 names (sibling), with a genetic likelihood ratio (LR) assigned to each name.

On this occasion, investigators were tasked with researching and swabbing relatives of the 'top ten' (by genetic likelihood ratio) and a further thirty nominals with a geographic relevance. At this point in the investigation, a Y-STR profile was obtained from the crime scene stain. Both these lines of enquiry failed to bring any resolution to the investigation.

## 11 Breakthrough

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The SIO had been in regular contact with NPIA advisors throughout the course of the cold case investigation and was aware that Behavioural Investigative Advisors from the Specialist Operations Centre were developing an enhanced prioritisation methodology, using a composite likelihood ratio (as described by Gregory and Rainbow in the Spring 2011 edition of this journal). With this in mind, a further re-run of the search was commissioned in June 2009. On this occasion, the top 400 names on each list were returned to the SIO, prioritised using this methodology. The table below is extracted from the sibling list and shows the individual genetic, geographic and age LRs, combined to give a total likelihood ratio for the names ranked first ('Smith') and second ('Jones') on the prioritised lists.

Genetic LR	DoB	IC	Sex	FSS swab	Geo LR	Age LR	Total LR	Name
<b>356,215</b>	01-Sep-58	1	M	50EC	63.1	86.9	<b>1,952,579,386</b>	<b>Smith</b>
<b>5,374</b>	15-Jul-59	1	F	06L1	63.1	81.5	<b>27,609,629</b>	<b>Jones</b>

Significantly, Devon and Cornwall (force code 50) where Smith was swabbed for a minor public order offence (for which he received a caution), is 250 miles away from the locations of the offences in Manchester (force code 06). Data which is not shown on this table (for example: place of birth, known addresses, locations of other offences committed) was extracted from the PNC and factored in to reflect Smith's connections to Manchester (place of birth). Without the use of the NPIA methodology, which extracted the PNC geographic data, Smith would have been allocated a significantly smaller LR for geography and potentially appeared much lower down the list.

What is also striking is that Smith has a total LR of 1.9 billion, as opposed to the second placed Jones at 27.6 million. Whilst purists will say the ranking (as

opposed to the size of the number itself) is most significant, such a disparity prompted the SIO to concentrate solely on Smith's family members as a priority.

At this point, a decision was taken to progress the investigation in a covert manner. Rather than risk compromise by approaching Smith directly to gain a picture of his family tree, detectives contacted the General Register Office to obtain details of his parents, children and siblings. The initial results focused attention on a brother, who had been born in Greater Manchester, but was now living and working in the south west of England. Further research which revealed his employment history and movements effectively eliminated him as a suspect. Crucially though, a comparison of the Y-STR profiles obtained from the crime stains and from Smith's retained 'B' scrape (buccal swab) showed a match (albeit the lack of a sizeable UK Y-STR database limits the discrimination factor considerably).

Frustrated by this latest development, but knowing from previous experience that most birth, death and marriage checks are conducted manually rather than electronically, the SIO directed that the Registrar's initial results be double checked. This revealed two more siblings, including a brother who matched the age and general description of the offender as described by Gemma and Clare. Preliminary research into this individual soon raised him to suspect status: he had been employed as a driver in the locality at the time, his vehicle exactly matched the description given by the victims and he lived within minutes of where Clare had been released from her ordeal.

A final check with the Registrar revealed that the suspect had died in 2005. Although he had been cremated, checks of his medical history in life led to the discovery of a tissue sample stored in a paraffin wax block within medical archives. Permission was given to attempt to obtain a DNA profile; this was successful and matched the crime scene stain.

## **12 Resolution**

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At this point the decision was taken not to inform his surviving family members of this conclusion to the case. There are arguments for and against this approach. On the one hand, publicity may have revealed further offences (though none were apparent from police records) or provided public reassurance. Counter balancing this was a recognition that his wife and children may have been caused unnecessary distress or become victimised.

Clare and Gemma however were informed and their reaction to the news proves the value of bringing a successful resolution to such historic cases. Gemma had always believed that her crime would be detected and was very happy to hear the news. Clare was sorry that she was not able to face him in court, but was pleased to hear of his demise. More tellingly, she now felt, for the first time in over ten years, that she could move on with her life: up to this point she could never have been alone in a room with a man she did not know. She had moved home seven times in the intervening period, always afraid that one day she would be confronted by him again.

## **13 Future investigations**

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The successful outcome to this investigation came about through persistence, legitimate and ethical use of the DNA database and the application of an enhanced familial DNA prioritisation methodology. Provisions within the Crime and Security Act 2010 and the Protection of Freedoms Bill, currently before Parliament, threaten to tie the hands of the police in detecting such offences in the future. It has been argued by Chief Constable Chris Sims, ACPO lead on forensic science, that 1,000 DNA matches per year will be lost across all crime categories with the introduction of this legislation (Hansard 2011). This will undoubtedly include some of the most heinous offences committed in this

country. The authors are about to embark on a research project which it is envisaged will give SIOs further confidence in the use of the techniques outlined in this article, with the aim of applying them more frequently in appropriate investigations in order to bring more offenders to justice in a timely and cost effective manner.

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Gregory, A. and Rainbow, L. (2011) *Enhanced Prioritisation of Familial DNA Searches*. Journal of Homicide and Major Incident Investigation. Vol.7 Issue 1. Spring 2011.

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**The Major Crime Investigation Community** on POLKA is for all those who have an active interest in major crime investigation. You can use the forum for practical ideas, personal development and as a virtual learning environment. Any interesting news, tips, methods or processes that can be shared may be placed onto the Discussion Forum and this is already proving to be a popular means of disseminating and debating current topics. It is so much more than just a website that contains downloadable material and documents because of the opportunity to informally communicate about subjects that are of importance to the work of major crime investigators.

There have been some interesting recent discussions on social networking and the application and use of it in evidence. Also, on pre-transfusion blood samples (aka 'admission samples') and the powers to seize without consent. In all there have been 54 active discussions.

Other news is that DCI Paul Fountain from the Major Crime Review Team of West Yorkshire Police has joined the facilitators and there are now over a thousand members of the community.

The following documents have recently been added:

- ACPO & CPS (2010) Guidance Booklet for Experts, *Disclosure Experts' Evidence, Case Management and Unused Material*.
- Attorney Generals Guidelines issued on 14th day of July 2011. *Supplementary Attorney General's Guidelines on Disclosure. Digitally stored material*.
- Home Office. *Multi-Agency Statutory Guidance for the Conduct of Homicide Reviews*.
- Review Article. Dean Jones (NPJA). *Miscarriages of Justice: the role of homicide review*

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# Statutory Reviews and the Homicide Investigation

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## **Abstract**

Serious Case Reviews (SCR) and Domestic Homicide Reviews (DHR) have become an established part of the wider safeguarding and public protection procedures used by the police and partner agencies. They help them to quickly understand why a serious injury or death has occurred, and so enable them to protect others who may be vulnerable due to the same circumstances as well as improving services more generally. To be effective, they have to examine the detail of each case in a timely manner. This often means that they are carried out at the same time as a criminal investigation arising out of the same incident and rely on the same sources for information. Naturally, this can cause some concern to SIOs who fear that they may compromise evidence or interfere in the investigation in other ways.

This paper, written by an experienced SIO who was one of the authors of the CPS / ACPO Guidance on this issue, aims to allay these concerns and provide SIOs with the information they need to work productively with SCR and DHR.

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3. Potential changes to the Serious Case Review system
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6. Disclosure of unused material
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## **1 Introduction**

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When a tragedy involving a child or vulnerable victim occurs, the importance that the public attach to a robust review of the role of statutory agencies has been evidenced by their reaction to the death of Peter Connolly, sometimes known as Baby P. The public, through the media, demand a robust review process in which they have confidence. At times, this may be an inconvenience to police officers carrying out a simultaneous homicide investigation, but it cannot be ignored.

This paper is written to help Senior Investigating Officers (SIO) better understand how their homicide investigation might be affected by a simultaneous Serious Case Review (SCR) if the victim is a child under 18, or Domestic Homicide Review (DHR) if the victim is a person over 16. It offers some ideas to help reduce the likelihood that either process will adversely affect the other. Although there are occasions when I shall refer to each type of review individually, most of the principles and concepts in this paper are cross transferrable because the process of carrying out the reviews is almost identical, as are the implications for SIO's.

There have been many sociological studies which argue whether public opinion is moulded by the media, or whether the media reflects existing public opinion. In the context of homicides involving children and the more vulnerable members of society it doesn't matter which of these hypotheses is correct, but the way the public feel does matter. It matters not least because public services in England and Wales are accountable to the communities they serve.

Anecdotally, I believe many police officers carrying out homicide investigations understandably start from a position whereby they would prefer that any external review should not go ahead at all if there is a criminal investigation, because it does mean that along with their many other responsibilities, SIO's need to consider whether a simultaneous statutory review could taint witnesses

or lead to disclosure problems. Such a position is not supported by Government statutory guidance (DfE, 2010 and Home Office, 2011) and would in any case be an over-reaction because much useful learning can still be established without compromising the investigation.

In April 2011, guidance (ACPO/CPS, 2011) was published in respect of Serious Case Reviews, by the ACPO Homicide Working Group and the Crown Prosecution Service. Its aim is to help the parties deal with any conflict, and to help create an environment whereby both processes can not only successfully run alongside each other but might even assist each other. Some sections of the document are reproduced throughout this paper, but it is highly recommended that the full guide is adopted as good practice by police forces.

At the Royal Courts of Justice, on 20<sup>th</sup> July 2011, this guide was subject to challenge by a Local Safeguarding Children Board (LSCB) in a case where the police, whilst investigating the suspicious death/neglect of a child, had followed it in seeking to view potentially relevant SCR material. The LSCB Chair had refused and, in line with the guidance, a witness summons was obtained by the CPS and a Public Interest Immunity hearing was held.

In his Judgement, Mr Justice Maddison referred to several sections of the Guidance and commented, "In my view, the Guide is a helpful document" with "eminently sensible" suggestions (R v Rees and others, Bristol Crown Court – Pre Trial Hearing relating to third party disclosure).

I believe much of the good practice advice set out in the document might be useful in respect of DHR's as well as SCR's. (Note: Police Officers and Police Staff can download this document from the POLKA website, Major Crime Investigation Community 'documents tab')

## 2 The law

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In seeking to understand how to minimise any adverse effect that a SCR/DHR might have on a criminal enquiry, it is important to recognise that both types of Review are carried out under a legal requirement. The commissioning body, either a Local Safeguarding Children Board or a Community Safety Partnership (CSP), will normally have no option but to conduct it. Later in this paper I will describe how there is scope for the SIO to influence the timing or restrict the activity of such a review, but first, a brief look at the law may be useful, starting with the SCR.

Unlike a full statutory public inquiry such as the Victoria Climbié Inquiry, individuals cannot be compelled to cooperate with, or assist, a Serious Case Review. Under the Inquiries Act 2005, certain offences were created such as the alteration or destruction of documents which an inquiry may require, but this legislation does not apply to SCR's or DHR's

Through overarching legislation under the Children Act 2004 however, some statutory agencies such as the Police and Health Services, do have a legal obligation to take part in the SCR, and perhaps by extension a duty to co-operate is also imposed upon employees of such organisations.

Local Safeguarding Children Boards are set up by local authorities in accordance with a requirement in the Children Act 2004. They are the key statutory mechanism for agreeing how the relevant organisations will co-operate to safeguard and promote the welfare of children, and for ensuring the effectiveness of what they do. Section 13 of the Children Act 2004, specifies the agencies (such as Police, Health Authorities, etc) which are required to co-operate in the establishment and work of an LSCB. This 'work' includes SCR's.

The role and function of the LSCB is set out in law by The Local Safeguarding Children Board Regulations 2006, Statutory Instrument 2006/90. Regulation 5 requires the LSCB to undertake a SCR when certain criteria are present. Procedures for carrying out SCRs are set out in Chapter 8 of the statutory Government guidance *Working Together to Safeguard Children (2010)*. This chapter prescribes:

*When a child dies (including death by suspected suicide) **and** abuse or neglect is known or suspected to be a factor in the death, the LSCB should **always** conduct a SCR into the involvement of organisations and professionals in the lives of the child and family.*

*In addition, a SCR should always be carried out when a child dies in custody, either in police custody, on remand or following sentencing, in a Young Offender Institution (YOI), a Secure Training Centre (STC) or secure children's home, or where the child was detained under the Mental Health Act 2005.*

*In addition, LSCBs should consider whether to conduct a SCR whenever a child has been seriously harmed in the following situations:*

- *a child sustains a potentially life-threatening injury or serious and permanent impairment of physical and/or mental health and development through abuse or neglect;*
- *a child has been seriously harmed as a result of being subjected to sexual abuse;*
- *a parent has been murdered and a domestic homicide review is being initiated under the Domestic Violence Crime and Victims Act 2004*
- *a child has been seriously harmed following a violent assault perpetrated by another child or an adult;*

**and** *the case gives rise to concerns about the way in which local professionals and services worked together to safeguard and promote the*

*welfare of children. This includes inter-agency and/or inter-disciplinary working.*

The first caveat of the above section seems to make it clear that in every child homicide case, i.e. any case where the police suspect that a child has been killed because of maltreatment, there must always be a SCR commissioned by the LSCB.

In April 2011 the concept of the Domestic Homicide Review was established on a statutory basis under section 9 of the Domestic Violence, Crime and Victims Act 2004. This provision came into force primarily to use the model currently in existence regarding children, to learn lessons when adults had been unlawfully killed during a domestic incident. The Statutory Guidance concerning Domestic Homicide Reviews (Home Office, 2011) prescribes a methodology which is identical in most respects with the guidance for SCR's contained in *Working Together to Safeguard Children* (DfE, 2010) including the need for Independent Reviewers and Individual Management Reviews by the agencies concerned.

Overall responsibility for establishing a DHR rests with the local Community Safety Partnership, and the law now requires that a DHR will be carried out:

*In circumstances in which the death of a person aged 16 or over has, or appears to have, resulted from violence, abuse or neglect by:*

*(a) a person to whom he was related or with whom he was or had been in an intimate personal relationship, or*

*(b) a member of the same household as himself, held with a view to identifying the lessons to be learnt from the death.*

Unlike SCR's there is more scope to compel agencies and individuals to assist a DHR, and section 9(2) of the Domestic Violence, Crime and Victims Act 2004,

allows the Secretary of State to direct a specified person or body to establish, or to participate in, a DHR.

An important factor which needs to be borne in mind is that a suspicious child death is, in the broadest sense, a type of 'domestic homicide'. The definition of domestic violence within the statutory guidance includes violence perpetrated against or involving partners, ex-partners, *other relatives or household members*. Certainly this would seem to mean that children who had been killed within the household by a carer would fall within this definition yet there is only a requirement to carry out a DHR if the victim is over 16 years old. Presumably this is because the Government was satisfied that the current arrangement for conducting SCR's under *Working Together to Safeguard Children (DfE, 2010)* was robust enough and fit for purpose. It would therefore seem incongruous for the reviews into the deaths of children within a household to be treated in a less robust and far reaching manner than a review into older siblings or relatives.

### **3 Potential changes to the Serious Case Review System**

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When the Coalition Government took power in May 2010, they commissioned Professor Eileen Munro to undertake a broad review of child protection and to make recommendations for improvement. In her Report, Munro (2011) recommended that there should be a systemic change to SCRs based on an approach she says is used in sectors such as aviation and healthcare. The idea is that there should be less focus on what individuals did wrong, and a stronger focus on understanding the underlying issues that made professionals behave the way they did and what prevented them from being able to properly help and protect children, or in other words, to move beyond identifying what happened to explain why it happened. This approach to reviews has been promoted by the Social Care Institute for Excellence (SCIE) and is known as 'Systems Methodology'.

The Government response to the Munro recommendations was published on July 13<sup>th</sup> 2011 and it indicated that there may be a transition to the 'Systems Methodology' model. The wording of the response however seems somewhat lukewarm, and at this stage the Government has merely undertaken to consult the safeguarding sector and 'consider further' the future methodology for SCR's.

The model which is eventually decided upon for SCR's need not be of great importance to the SIO, although one aspect of the 'Systems Model' requires a large meeting of all practitioners involved in the case or working with the family. The idea is that this meeting would replace the learning gained during the Individual Management Review (IMR) stage of a SCR when the Reviewer would currently interview staff on a one to one basis. It is possible that parallel criminal investigation could be more likely to be compromised if there was to be a large uncontrolled meeting of relevant practitioners (some of whom may be prosecution witnesses) as part of the 'Systems Model' review. Material generated on 'post its', rough notes, flip charts etc will be far harder to assess for relevance and the requirement for disclosure than notes from a one to one interview.

#### **4 Good communication is crucial**

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Seeking to delay or restrict the work of a SCR or DHR, and the learning it achieves, should be seen by the SIO as a grave step which may prejudice the welfare of children or vulnerable adults. There can be occasions however, when the proposed activity carried out in respect of a SCR/DHR may compromise a police investigation or criminal prosecution, (which is, in itself, an important process for protecting the public in the future). Provided the learning obtained by the Review would not be significantly reduced, every effort should be made to avoid the SCR/DHR adversely affecting the criminal case.

To achieve this, an early action at the commencement of any child or domestic homicide investigation should be a request to the police LSCB or CSP delegate

that they notify the SIO if the Chair decides to commission a SCR/DHR. If a Review is commissioned, a Panel will be formed of senior members of the relevant agencies, as well as an Independent Chair, to oversee the process. Upon receipt of such notification, the SIO should establish the identity of the police Review Panel member and make early contact with them to express an interest, and to inform them that a parallel criminal investigation is underway.

Any request to restrict the progress of a SCR/DHR should be made by the SIO in a meeting with the Chair of the SCR or DHR Panel who in turn will consult the police Panel Member and the Independent Overview Report Author. The reasons why the SIO believes that the proposed timescale and/or activity planned by the Review Team is likely to compromise the criminal investigation or future prosecution, should also be put in writing in the form of a letter to the Panel Chair and a reasonable request, with cogent reasons, should be treated favourably by the Panel Chair. If possible, whether or not anyone has been charged, the CPS should be asked for their view as to whether any potential future prosecution is likely to be adversely affected by the work carried out as part of the SCR/DHR.

It may be useful to consider these three principles to underpin any discussions between the 'prosecution team' (i.e. the Police and the CPS) and the Review Panel Chair:

- Both SCR/DHR's and criminal investigations are important processes to safeguard children and vulnerable adults, and neither should be compromised if at all possible.
- When involved in any liaison or negotiation concerning the sharing and exchange of information the Parties should have regard to Rule 1.1 of the Criminal Procedure Rules 2010 which sets out the overriding objective that criminal cases be dealt with justly. It is important that criminal prosecutions are carried out in a 'just' manner and therefore nothing done by the SCR/DHR should cause or allow a miscarriage of justice.
- For the Review to be effective, *all* possible learning needs to be established in order to safeguard children immediately, and in the future,

and so the existence of a criminal investigation should not compromise that learning.

It is important to bear in mind that a police officer who is acting as the panel member for the police is unlikely to have any intimate knowledge of the criminal investigation and cannot be expected to make decisions on behalf of a homicide investigation team. Whilst such officers can provide a useful link to the SCR or DHR, the SIO or nominee should become personally involved in discussions to ensure that they are directly involved in the decision making process.

## **5 Involving family and significant others**

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For a Serious Case Review or Domestic Homicide Review to be effective, the process must uncover all the material and evidence which could lead to greater learning about how services to children and families could be improved. Professionals will have their views, and their contribution is, of course, vital, but professionals cannot completely understand what the 'end user' feels about the service they were offered or provided.

In their 2005 – 2007 Biennial Analysis of SCR's (Brandon et al, 2009), plenty of evidence was cited which indicates the value and necessity of involving families and the community in the learning process. In every SCR I have been commissioned to undertake, my analysis of the agency involvement and service provided has been greatly assisted by the involvement of family members and significant others. Arguably, the most important learning can come from family, friends, neighbours etc. and should be a central part of every SCR.

Where relevant, the Review also needs to seek information from carers about how they were able to harm their children and get away with it. This may seem naïve on the face of it but when someone has pleaded guilty to child abuse or homicide, and they have acknowledged culpability, it could be extremely

valuable to ask them how they got away with it under the noses of 'the authorities' and perhaps how they were able to deceive practitioners. By learning those lessons, training can be improved and practitioners can get a more realistic view of the deviousness of some people.

The DHR Statutory Guidance (Home Office, 2011) also notes that family members and members of support networks '*...should be given every opportunity to contribute unless there are exceptional circumstances.*'

The only hindrance that cannot be overcome is when a family member refuses to get involved. If they are prepared to assist the SCR learn lessons then nothing should prevent that. It is just a matter of timing, and any perception that the Reviewers cannot interview witnesses or even defendants in a criminal case is wrong. There should be an assumption by the SIO that the Reviewers will want to interview *anyone* who can help maximise learning, but that also discussion can be held between the police, CPS and the SCR/DHR Reviewers about *when* this should take place. For example, if a parent is on bail pre-charge, and the police are planning to re-interview them after forensic results come back, I believe it is best for the Reviewers not to approach that person until after the police have finished their interviewing process, but this is the sort of scenario which needs to be the subject of early negotiation by the SIO.

In their earlier Biennial Analysis (Brandon et al, 2009), the researchers revealed that sometimes fairly flimsy reasons are given for failing to involve families. In one report examined they discovered the comment, "*Due to police proceedings – unable to contact parents to ask if they wish to be involved*". On the face of it, this seems an unacceptable approach which should have been challenged by the SCR Panel, and it would very likely be challenged by Ofsted or HMIC, who currently evaluate each process.

## **6 Disclosure of unused material**

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*Working Together to Safeguard Children* (2010) acknowledges that when a SCR is commissioned and there is a current ongoing police investigation or pending prosecution involving some of the relevant parties, there may be a need for compromise either in terms of the timescales within which the SCR will be completed, or some of the activity carried out by the people conducting the SCR. Similarly, with a DHR, the Statutory Guidance (Home Office, 2011) allows scope for alterations to the usual timescales.

From the point of view of the SIO and CPS, the main concern is likely to be that the Review Team might wish to interview potential prosecution witnesses, or even potential defendants, and in so doing their evidence could be compromised. Criminal cases can take many months or even years to be finalised, and because those conducting the Review are working towards a 6 month deadline for completion, there can sometimes be a conflict of interests which the two sides need to work through.

For their part, Review Panel Chairs may need to be briefed on the law in respect of disclosure of material in criminal proceedings, and also understand that some material held by the police in their investigation papers may be very useful to the Review in trying to learn lessons.

One of the specific concerns for the prosecution team is likely to be that material generated by the SCR/DHR, such as interview notes by IMR Report Authors, could contain new evidence, or perhaps contain comments which might taint the reputation of prosecution witnesses. If, for example, a potential defendant was interviewed in respect of the SCR, they may say something which contradicts an account given during a police interview. Likewise, a potential prosecution witness may give a different version of events than they gave in a police statement, or information may be uncovered by the SCR which leads to a doubt about their

truthfulness or ability to keep accurate records, which of course would be highly relevant if a jury were invited to believe their evidence in court.

The Criminal Procedure and Investigations Act 1996 (CPIA), including its accompanying Code of Practice, and the Attorney General's Guidelines on the disclosure of information in criminal proceedings, all govern the disclosure of unused prosecution material to the defence. References to 'unused material' are to material that may be relevant to the investigation that has been retained but does not form part of the case for the prosecution against the accused.

The Code requires the police to record and retain material, obtained during a criminal investigation, which may be relevant to the investigation. The CPIA defines what is meant by a 'criminal investigation' and a SCR or DHR does not fall within the scope of that definition. However, any material generated by a SCR/DHR is third party material and police officers and prosecutors must have regard to whether relevant material may exist in relation to other linked investigations or prosecutions. Reasonable enquiries must be carried out by the police to establish whether such material exists and, if so, whether it may be relevant to the criminal prosecution.

The Statutory Guidance concerning Domestic Homicide Reviews (Home Office, 2011) also reminds practitioners of the likelihood that relevant material may be generated during the DHR.

*Dependent on the case, material gathered in the course of a DHR may be capable of assisting the defence case and would almost certainly be material that the defence would seek to gain access to. If a DHR is being conducted parallel to a criminal investigation the disclosure officer will be obliged to inform the Prosecutor and any interviews with other agency staff, documents, case conferences etc. may all become discloseable.*

The CPS should initially treat any SCR/DHR material as sensitive material, and as such it should not appear on any schedule provided to the defence. This is a key safeguard (which was recognised and highlighted by the High Court Judge in the case mentioned earlier) and it means that although the police may have been allowed to view SCR/DHR material which they believe is relevant, the Review Panel Chair will still be 'in control' of its dissemination. It will not be disclosed to the defence unless the Review Panel Chair agrees, or has had the chance to instruct lawyers to argue in court that it would not be in the public interest for it to be disclosed.

When criminal proceedings are ongoing, the guidance in *Working Together to Safeguard Children* (DfE, 2010) does recommend discussion about the timing of interviews with 'relevant personnel', and at what stage they might contribute to the SCR process, although there is a presumption that all relevant people will be engaged at some point. If interviews are conducted with people who may be involved in criminal proceedings the SIO should negotiate that police and CPS will be informed so that they can discharge their disclosure duties under the CPIA. It follows that the SIO and the CPS need to be prepared to inform the Review team where possible, of people who are likely to be form part of the prosecution case.

Criminal cases can take a long time to resolve and there may be some circumstances where the LSCB/CSP, in carrying out its statutory duty to conduct the SCR/DHR, considers it would not be appropriate to wait for months or even years, to gather all possible learning. If, prior to charge or conclusion of a trial, interviews *are* undertaken by those engaged in the SCR/DHR with people who are either suspects or have been charged with a criminal offence, the SIO should request that the Disclosure Officer be allowed to view any interview record in case the suspect had made other disclosures or given alternative accounts, as this could potentially be admissible evidence.

When a suspect has already been charged, the situation is clearer in respect of DHR's because although a limited Review will still be commenced, the Statutory Guidance (Home Office, 2011) recommends:

*In cases where the suspect is arrested and charged, the commissioning of the Overview Report should be held temporarily until the conclusion of the criminal case but agencies and interested parties should be notified of the requirement and be obliged to secure any records pertaining to the homicide against loss and interference. In these circumstances, the Review Panel should ensure records are reviewed and a chronology drawn up to identify any immediate lessons to be learned (an immediate IMR).*

However, even though the full DHR may be put on hold, there is still a likelihood that 'immediate IMR's' will be commissioned by the CSP from each relevant agency, and as such it is possible that potential witnesses could be interviewed by the IMR Reviewers. The SIO therefore still needs to be prepared to negotiate a delay if it is felt that speaking to certain people may compromise the criminal investigation.

## **7 Conclusion**

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Criminal investigations and SCR/DHR's can work alongside each other without too much hindrance, and information from one process might, in fact, help the other achieve its aims. A police investigation, particularly concerning homicide, will be extremely thorough and this will result in the gathering of a great deal of material. Some of this material may, for example, be of value to those seeking to learn lessons about how a child was maltreated or how agencies could have better worked together to prevent maltreatment.

There is a real need for dialogue between the SIO and the Review Panel Chair because it is unlikely that both will fully understand the working procedures and requirements the respective processes they are leading on. With greater understanding between the parties, there is more likely to be respect for what each is trying to achieve.

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## **UPDATE..UPDATE.. UPDATE.. UPDATE.. UPDATE.. UPDATE.. UPDATE**

NABIS has now been operational for three years. This year has seen the implementation of the Memorandum of Understanding between NABIS and the police forces and partner law enforcement agencies of England and Wales. A fourth NABIS hub in Scotland is now live and will be officially launched on the 18<sup>th</sup> November 2011. PSNI are linking in to NABIS through the Scotland hub.

### **NABIS Forensic Services**

*Any shooting incident where cartridge cases and/or bullets are recovered from a scene will always get a response from a NABIS Forensic Scientist within 7 days.*

### **Some Case Examples: From the Kerb to the Microscope**

1. Two cartridge cases and three live rounds were recovered from a recent incident in the North West of England where shots were fired into a crowd of people gathered outside residential premises at 04.00hrs. Fortunately, no-one was injured. The recovered ballistic items were submitted to the Northern NABIS hub at 14.00hrs the same day. At 16.00hrs the OIC received a verbal update followed by an email from the NABIS Forensic Scientist that the two fired casings had come from the same gun and there was no connection at that stage to any other firearms on the NABIS Database.

2. Three cartridge cases recovered from a shooting that occurred late one evening in the North West of England, which bore the hallmarks of a gang-related incident, were submitted to the Northern NABIS hub the morning following the shooting. Twenty-four hours later the OIC received an email update from the NABIS Forensic Scientist detailing 10 incidents where the same firearm had been used, all of which had occurred in the same geographical area. This was followed by an intelligence package from the NABIS Intelligence Cell which detailed the connected incidents.

3. Following a murder committed with a firearm, one projectile was recovered from the scene and submitted to NABIS. Twenty-four hours later the OIC received a full scientific report from the NABIS Forensic Scientist.

### **Evidential Microscopy**

If an evidential statement was required in any of the above incidents, this can now be provided by a scientist at one of the NABIS Hubs. Forces are encouraged to utilise NABIS for carrying out all evidential microscopy work, as it is covered by the annual subscription fee and is therefore free at the point of delivery.

### **Key Messages**

- When investigating any gun crime incident – Think NABIS!
- Find out how your force processes and submits crime-related ballistic items to NABIS;
- NABIS is reliant on OIC/SIOs ensuring all recovered ballistic material is submitted;
- The quicker ballistic material is submitted to NABIS following an incident the sooner ballistic intelligence will be returned to you;
- Ballistic intelligence provided by NABIS will enable you to know:
  - o The number and type of firearms used in an incident;
  - o Whether or not the firearm(s) has been used before;
  - o Whether the firearm(s) is linked to any other incidents and if so where those incidents occurred;
  - o The origin of the firearm(s) (e.g. firearms tracing).
- For incidents where ballistic connections are identified, the NABIS Intelligence Cell will prepare an intelligence dissemination package (i.e. sequence of events and linkage chart) which will be forwarded to you within 5 days of receipt of the Forensic hub report.

### **Use and Recovery of Firearms Linked to the Recent Disorder**

Following the incidents of disorder across the country in August, NABIS were asked by the Home Office to collate from police forces instances where firearms were used and/or recovered as a result of police intervention linked to the disorder. The NABIS Intelligence Cell are currently analysing the responses received from forces and the findings will be outlined in a forthcoming Problem Profile.

## **Practitioner Debrief: Tackling the Supply and Use of Converted Baikal Handguns**

Criminal use of converted Baikal handguns continues to be a significant threat. NABIS and SOCA are facilitating a debrief on 18-19<sup>th</sup> October of practitioners who have been operationally involved in tackling the supply of converted Baikal handguns from Lithuania into the UK. The debrief aims to capture and share intelligence from previous operations so that investigative opportunities can be identified. The outcome of the debrief will be an agreed action plan for targeted operational activity.

## **Investigating Gun Crime Seminar**

On the 1 March 2012 NABIS and ACPO Criminal Use of Firearms will be hosting a national gun crime seminar at Ryton aimed primarily at the SIO community. The delivery of the seminar will take the form of a rolling case study based on the evolving story of how firearms come into criminal possession, how they enter the UK, how they are distributed, used in serious offences including homicide, and their impact upon communities. At each stage of the case study tactics and strategies to counter the criminal use of firearms will be discussed and reviewed by subject experts and opened to discussion with delegates.

The seminar will be free of charge and six hours CPD points will be awarded to PIP Level 3 registered officers. Further information about the seminar is detailed on the Criminal Use of Firearms Community on POLKA.

The NABIS Central Team can be contacted on: **0845 113 5000** ext **7630 6204**

The NABIS Intelligence Cell can be contacted at:

[nabis.intel@west-midlands.pnn.police.uk](mailto:nabis.intel@west-midlands.pnn.police.uk)

For further details see:

[www.nabis.police.uk](http://www.nabis.police.uk)

Criminal use of Firearms Community on POLKA

<https://polka.pnn.police.uk>

## Demystifying the World of Body Search and Blood Dogs

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**South Yorkshire Police, Victim Recovery and Forensic Evidence search dog team.**

### **Abstract**

This article aims to demystify the world of body search and blood dogs. If an SIO is leading a homicide investigation, they may consider the use of these dogs without fully knowing their strengths and limitations, what to expect from a search or indeed what questions to ask to ensure the right dog team is deployed. Equipped with the correct information, an SIO can ensure that the search is conducted professionally, efficiently and effectively.

There are currently only 10 Police forces throughout the whole of the UK that have these search assets. An SIO may find out via the NPJA or the ACPO directory the individual forces concerned.

The South Yorkshire Police dog team have been at the forefront of the training and operational running of Victim Recovery (body) and Forensic Evidence (human blood) Search dogs for over 12 years. Within that time they have had over 500 hundred deployments throughout the UK.

Over the years the team have developed the training programs for potential search dogs and their handlers. These are delivered at their training school based in Sheffield, South Yorkshire. They are currently training search dog teams for other forces and are involved in research projects with the University of Staffordshire.

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For further information on the Victim Recovery and Forensic Evidence Search dogs please contact South Yorkshire Police Dog Training School 01142964941

Alternatively, contact the NPIA Specialist Operations Centre on 0845 000 5463 or email [soc@npia.pnn.police.uk](mailto:soc@npia.pnn.police.uk).

## **1 What Are the Skills of a Victim Recovery Search and Forensic Evidence Search Dog and How Can they Benefit an SIO?**

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### **Victim Recovery Search Dogs.**

These dogs may also be referred to as cadaver or body dogs. These specialist search dogs are trained to search for and locate human remains and or parts thereof shortly following death or in the later stages of decomposition, secreted or otherwise, either on land or in water. They can be deployed in a wide range of circumstances from large scale missing person searches to crime scene investigation. The role profiles and protocols included in this article form the basis of what role the dog teams can provide for the SIO.

How soon after death a dog can detect remains depends on the experience of the dog team and factors such as injuries, the location, the weather, the depth of burial and the level of effort made to conceal the body etc. The South Yorkshire Police team's experience of detection ranges from several hours to many years old.

Water searches are possible due the scent from the decomposing body rising through the water and breaking the surface. Factors such as the wind, temperature and the speed of the current need to be taken into consideration by the handler as these may affect the location of the indication from the dog relative to the actual location of the body i.e. the dog could be down wind or up stream. Disturbance of the water by other search teams such as the underwater search unit immediately prior to the dog deployment may also have a detrimental effect, for example, if they disturb underwater surfaces. However, this being said, dogs can still be an effective tool at the disposal of the SIO, and armed with the correct information the handler should be able to develop a search strategy that provides a quality deployment.

Some forces may train their dogs to scent from a boat but this requires handlers to have water field craft training and wet/dry suits, and both the handler and the dog to have flotation devices. However, the South Yorkshire dog teams have found that working the dogs from the bank, shore or coastline is just as effective. This approach has proved successful in deep water, fast flowing rivers, canals and reservoirs at depths from six to forty feet.

The dogs have the ability to indicate where a body has lain even if it has subsequently been moved. This is due to residual scent left at the original location. The indication can be confirmed through subsequent forensic examination and the retrieval of physical evidence. Even where no corroborating evidence is found the indication may still provide intelligence for the enquiry. Below is the South Yorkshire Police search profile for victim recovery search dogs.

#### **Search profile Victim Recovery Search dog**

These dogs are trained to search and locate human remains in various stages of decomposition both on the surface, buried or in water.

The types of cases the SYP teams have been involved in include but are not limited to:

- Search of buildings including collapsed structures or fire damaged premises,
- Search of disaster scenes,
- Search of water courses in relation to MFH, suicide and crime related matters,
- Search of areas in relation to crashed aircraft,
- Search of areas for amputated body tissue in relation to RTC's,
- Search of vehicles for recovery of DNA evidence,
- Search of vast areas of open land in relation to MFH or suicide,
- Searching and probing of areas in relation to crime related matters.

The teams have worked as part of a multi agency contingency and have the ability to deploy as a team or individually.

## **Forensic Evidence Search Dogs.**

These dogs may also be referred to as CSI or blood dogs. These specialist search dogs are trained to search for and locate human blood in various stages of decomposition in different types of situation, such as, buildings, vehicles and open land.

The types of searches trained for again range from a free ranging search, for example the search of open land for a discarded blood stained weapon or to a tight fingertip search for blood evidence relating to a crime scene.

The work of the blood dog can be as equally impressive as that of the cadaver dogs. The South Yorkshire police dog team were recently called to an address, which had previously been searched by a Crime Scene Investigation team with nothing of note being found. On arrival the dog team quickly indicated to a specific area on the carpet located in the front upstairs main bedroom, as well as in the bath and on the bathroom carpet. As the investigation progressed it was established that the house had been subject to a thorough clean up procedure, to such an extent that bleach, water and new paint had evidently been used in an attempt to cover up the crime scene. Because of the indications from the dogs the FSS re-attended and further forensic tests found evidence of the victim's blood on the bedroom and bathroom carpets along with body and hair tissue in the bath. As a result of this evidence, the victim's husband was arrested, charged and ultimately convicted of the murder of his wife.

Another advantage of the blood dog is its ability to quickly indicate whether a stain that appears to be blood is in fact human blood. In previous cases, dogs have shown no interest in suspected 'blood baths' that have later proved to be paint or to have come from an animal.

The South Yorkshire teams have previously indicated to human blood on burnt materials and human blood that had been in situ for fourteen years.

Below is the South Yorkshire Police search profile for forensic evidence search dogs.

#### **Search profile Forensic Evidence Search dog**

These dogs are trained to search and locate human blood in various stages of decomposition, in different situations such as buildings, vehicles and open land.

The types of cases the SYP teams have been involved in include but are not limited to:

- Search of open areas for discarded blood stained weapons/ articles irrespective of time scale,
- Search the exterior and interior of a vehicle for blood residue even when clean up procedures have taken place,
- Search inside a building for blood spatter even when clean up procedures have taken place,
- Search items of clothing, footwear and other articles for blood residue even when items have been washed or cleaned,
- Search from a crime scene for a potential route taken by the offender or victim,
- Search of open areas locating a crime scene.

## **Forensic Evidence search dogs and article screening**

The South Yorkshire dog teams are also trained to screen articles for human blood. This includes, but is not limited to, clothes (even if they have been washed), footwear, jewellery, mobile phones and weapons. The benefit of this is the considerable cost saving, for example, if CCTV shows the suspect wore dark clothing, instead of sending all of the recovered dark clothing for examination, the dog can screen it and those items that it indicates can be prioritised for examination first.

The same applies to vehicles. A dog can narrow the search area down to, for example, a specific point on the passenger seat, the steering wheel or the handbrake etc.

The screening ability of blood dogs has been independently quantified by the completion of an eighteen month scientific research project in conjunction with Stafford University. This involved a scientifically run experiment where, for example, a measurable amount of human blood was placed onto small metal plates and then forensically cleaned by means of an autoclave. During the exercise the blood dogs were then presented with the sanitised plates and also ones that had never been contaminated with blood. Incredibly, the dogs were still able to indicate to the plates which had previously been in contact with human blood.



South Yorkshire Police are currently developing a protocol for the use of dogs in screening such as this and a draft is shown below.

## South Yorkshire Police Draft Protocol for Clothing Mass Screening.

SYP dog section currently has three trained blood screening dogs for use in such exercises. All three dogs are both body and blood screening trained. There are no permanent screening sites currently identified. There is potential for the use of an inflatable scene tent which could be taken to any site but needs a 240 volt power source. This does have the potential for forensic cleaning after every use.

Protocol:

1. MIT to identify the need for the blood screening dog
2. SIO/Management team from MIT to identify parameters re clothing recovery by Task Force which should be:
  - Realistic
  - Selective
  - Intelligence led

Consideration must be given as to the expectation of blood transfer with regards to the nature of the incident (size of staining expected, realistic stain size, blood spatter etc). This is regards to the forensic examination at the lab and may include liaison with FSS for advice! The size and amount of blood is not an issue for the dog as it will indicate minute traces.

3. Clothing recovered to be individually bagged (each item to be photographed front & back prior to packaging). This will mean a CSI photographer being deputed to work with the individual task force teams. If bulk bagged there will be cross contamination issues which could mean +ve indications by dog on clothing not involved in the offence and also cross contamination of fibres.
4. Request for blood screening dog through OPAD during working hours or via dog handler's mobile for out of hours. Advance notice helps as a suitable site and adequate resources will need to be identified by the handler. This will include more than one dog being available if numerous exhibits. A CSI resource will also need requesting by the MIT for photography during the screening procedure.
5. Bagged clothing exhibits to be brought to identified screening site by exhibits officer on day of screening. Number of exhibits to be screened to be limited to no more than 30 per screening dog (each exhibit equates to 4 separate searches as individual exhibits are screened front and back and then turned inside out and again screened front and back). Clothing that may have been washed will take considerably longer to screen. Each item of clothing to be put on individual sheets of forensically clean brown paper. After examination wrap the exhibit in the brown paper it is laid on and place the wrapped clothing into the original exhibit bag.
6. Screening site to be "screened" by dog and handler to negate any cross contamination issues prior to use.
7. Positive indications on clothing exhibits to be photographed by CSI resource assigned. Area to be identified by:
  - Describing area on photographic index i.e. lower left front.
  - Drawing a diagram of the exhibit on the exhibit bag indicating the area.

**Do not use adhesive arrows as this could cover or even lift off DNA/fibre evidence when removed!**

8. Inflatable tent (if used) to be forensically cleaned after screening finished. This must be done prior to return to Churchill Way Scientific Support Unit.

## **Why use a search dog?**

The benefits of using a search dog include not only their extraordinary abilities but also the cost effectiveness of their use. The cost of a team of officers searching an area on foot over several days will almost certainly prove more expensive than bringing in a search dog team. The dogs can cover a larger area than a group of officers and also provide a higher clearance level as they are using their sense of smell in comparison to a visual search.

Dogs are also able to work where humans cannot. An example of this would be a burnt out building that is too dangerous for police to enter and search. If this were required of a dog, its handler would direct it from outside of the building.



## **Are there limitations as to deployment of such dogs ?.**

An SIO should expect a handler to be honest with regard to the correct use and feasibility of the use of the dog in an investigation. In order to establish this the SIO may ask relevant questions as to the team's method of search and or experience in this particular discipline. However, in order for this to be done the handler has to be provided with the correct information in the first place. Good communication provides for a realistic and effective search strategy to be formulated.

Using them in an investigation is like using any other forensic tool - they are simply one of several options an SIO may have at their disposal.

## **2 Dog Selection and Training**

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Before dogs can be trained, they need to be deemed to have the potential to become a search dog. This means that their ability to use their nose and their prey and play drive are assessed. This drive is the instinct to search for, hunt and retrieve prey.

The dogs do not have to be of a particular breed. This means that good search dogs can come in any form, although, the natural traits and physical build of certain smaller breeds lend themselves better to the role profile than that of say a larger dog.

The usual age for training to begin is between twelve and twenty-four months. Depending on the police force involved, the training can last between four and

eight weeks. All search dogs trained within individual police forces should be annually licensed by an ACPO accredited Police Dog Instructor.

South Yorkshire Police were instrumental in the formation and inclusion of the current licensing units of assessment for both the Victim Recovery and Forensic Evidence Search dog roles contained within the current ACPO dog training and care manual. All South Yorkshire Police dog teams are accredited against each and every discipline within the role profile by an in the field experienced ACPO accredited Police Dog Instructor, by means of two licensing refresher courses at six monthly intervals in addition to a minimum of sixteen days continuation training throughout the year.

The type of training undertaken by handlers is varied. It can cover anything from forensic awareness and procedures, bone identification, advanced map-reading skills, field craft skills, health and safety issues, open searches, vehicle searches, building searches and writing professional search reports to actual scenario based exercises. The South Yorkshire police dog team also carry out training exercises with Urban Search and Rescue and mountain rescue organisations.

### **The debate around the use of pork and pseudo scents**

It is no secret that, during training, body dogs work with intact dead pigs and not human remains. This is because the use of human remains is prohibited. However, it would appear that the use of pigs is an effective method as they closely resemble human tissue, and all of the dogs trained in this way by the South Yorkshire Police dog teams have been proven in the field.

There has been some discussion about the use of pseudo scents as a replacement for the use of pigs. These are synthetic versions of the gases given off by dead flesh. In several respects, the use of the dead intact pigs is far

preferable as they go through a similar spectrum of changes as human remains during the putrefaction process.

Furthermore, there are many variables with dead bodies. They are dynamic and constantly changing and this can be effected by the environment in which they lie. In contrast, pseudo scents can only offer a snapshot of the whole process. When the pigs are used, dogs can be trained to detect bodies at varying levels of decay and in a variety of circumstances.

Another benefit of using pigs is that handlers can train for reality. The carcass used can be old, young, big or small, clothed, burnt or wrapped in carpet or polythene or treated in other ways in an attempt to recreate the realities of an investigation. This type of training would not be possible if pseudo scents were used.

### **3 What Can an SIO Expect from a Search?**

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Searches can be undertaken in all manner of places, from open fields, woodland, waterways and houses, to scrubland and building sites. The decision to deploy a search dog team will usually come after a discussion between the SIO, the Crime Scene Manager (CSM) and the Police Search Adviser (PoISA). Before the dogs begin to search, the handler will usually undertake a field craft exercise to assess the area and to decide where the search should begin. This may be done with the assistance of a geophysicist or forensic archaeologists.

The search capabilities vary from free ranging, which could for example be used in a missing person search on open moorland to a tight fingertip search for blood spatter at a crime scene.

A further example of the extent of these assets capabilities could involve an area of ground being probed for a potential burial. This would involve the use of a grid system with soil samplers and probes being used. The distance between each probe or sampler used being dependent upon the nature and size of the body.

The soil sampler probes can also be used to assess the condition of the soil underfoot. Soil samples can be taken and any anomalies noted. Soil that has lain undisturbed for years will be layered, whereas if it has been recently dug those layers will be mixed up. The samples taken can all be individually bagged for evidential purposes. This can provide further evidence as to where an SIO may wish to concentrate their efforts.

When the ground is probed the area is left to vent allowing the natural gases to be released. The period of time prior to dogs working the area is dependent on varying factors from the type of soil to the dog itself and is usually from thirty minutes to an hour. The dogs should be tasked by the handler to search each and every probe hole. Indications may then allow for further forensic investigation in a specific area.

The use of probes provides the dog with a further chance of scenting what could be deep down as the decomposing body fluids may contaminate a much larger area sub surface.

In one case, the South Yorkshire Police dog team were asked to assist in the search for a suspected murder victim who had been missing for two years. The investigation led to a large horse paddock, which needed to be searched by the dogs. The assistance of GPR had provided no further clues. The field craft experience of the handlers highlighted a potential site. The soil in the area was clay and due to the nature of the location was heavily compacted and sun baked. As a consequence, the probes could only be used to a depth of several inches.

However, on tasking the dogs along a section of the probe holes, indications were forthcoming. This specific area was then forensically excavated and the dismembered, burnt remains of the victim were located at a depth of two meters.



## **4 Selecting a Search Dog Team**

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Not every force has this asset, so an SIO may be forced to look elsewhere. Making the correct decision as to which team to deploy can be difficult. NPPIA's Specialist Operations Centre can assist with this decision. They can be contacted on 0845 000 5463 and can inform an SIO about specialists in a particular subject matter or force. Recommendations from other officers or forces are also important. Once a list of potential teams has been created, SIOs may wish to ask the handlers about the following:

- Is the team ACPO accredited by an ACPO qualified Police Dog Instructor from a Police dog training school,
- Is the team suitable for the particular search. This will require the SIO to provide accurate information about the incident and the nature of the deployment.
- How long has the team been working together and the previous deployments they have been involved in;
- If the team is relatively inexperienced or newly qualified, do they have access to a mentor or adviser who can assist if issues arise.

The number of teams deployed on a search depends on the size and type of terrain, and the urgency.

## **5 Conclusion**

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The abilities of search dogs are extraordinary and their benefit to homicide investigations cannot be overestimated. They are, however, not infallible. Their proper use requires honesty from the SIO regarding the task the dog is to undertake and from the handler as to what the dog is capable of doing. Asking the right questions and having a basic knowledge of the world of search dogs can help SIOs feel more confident in using this type of forensic tool.

# The Major Crime Scene De-contamination Gateway

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## **Abstract**

The integrity of a serious crime scene, minimising and seeking to negate all aspects of contamination, must be the ultimate goal for confidence in the criminal justice system to prevail. Enter any accredited scientific laboratory and one will be required to pass through an ante-room where robes and other personal protective equipment (PPE) can be donned to ensure that contamination is minimised. Why then do we not adopt a similar, if improvised, approach to a crime scene locus, to achieve the same objective. This paper describes the procedure adopted by the author to achieve this by providing a Major Crime Scene De-contamination Gateway.

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## **1 Contamination**

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Ask any Crime Scene Investigator (CSI) what is the biggest challenge during the scene investigation process and they will probably tell you that the control of contamination is uppermost in their priorities. If Dr Edmond Locard (1877-1966) was correct in his scientific statement, which forms the foundation of forensic science that, "every contact leaves a trace" then that same statement is equally applicable to the issue of contamination.

## **2 Integrity**

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The preservation of the integrity of any physical evidence forming the basis of proof of a case begins before the actual seizure of artefacts and their interment into sealed containers. From the time of discovery, such evidence is exposed to the risk of contamination, mainly by personnel during their access to the scene inadvertently transferring material from one part of a scene (or outside of the scene) to the artefact from which vital evidence is eventually recovered. In cases involving minute particles of material, fibres and DNA the integrity of this evidence is therefore vital and many cases have been acquitted in court due to doubts over the integrity of evidence.

## **3 Laboratory based examinations**

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When exhibits are examined in a laboratory, specific de-contamination protocols are established to ensure that outside contamination does not enter the sterilised area. Similarly when the examination is complete it is equally vital that contact traces from the exhibit do not egress from the laboratory to the informal or public area, only to be re-introduced to another examination via the innocent carrier. A simple ante-room is provided at the entrance to the laboratory where PPE can be donned to create a sterile barrier between normal clothing and the

subject of the scientific examination. For the system to be fully effective the same PPE must be removed in the ante-room upon egress. Scientific laboratories are accredited to International Standards (ISO 17025) and in the very near future it will be necessary for locus based CSI examinations to also conform to ISO (17020) to comply with the recommendations to Government and the Judiciary from the UK Forensic Regulator.

<http://www.homeoffice.gov.uk/publications/police/forensic-science-regulator1/codes-conduct-practice?view=Binary>

#### **4 Scene control**

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If Laboratories had no protocols to control contamination they simply would not achieve accreditation. Similarly we must consider that if major crime scene investigation does not recognise the need to create, albeit improvised, physical barriers to negate contamination, then the integrity of evidence as well as accreditation is at risk of being compromised.

#### **5 Media intrusion**

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It astounds me that virtually every media report of a serious crime includes video footage of PPE clad CSI's and scientists arriving at the scene, carrying their equipment through the outer cordon and interacting with police officers upon their arrival. It is almost as if the media await the arrival of the mysterious hooded specialists just to ensure that the news item has additional impact upon viewers. It is also a blatant demonstration of the absence of contamination control and should be ammunition to the portfolios of defence barristers. Imagine the outrage if a surgeon in full "scrubs" and face mask was seen walking through a hospital concourse on his way to the operating theatre.

## **6 De-contamination gateway**

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It occurred to me, while I was deployed training CSI's in crime scene management at the UK National Training Centre, that a simple solution to scene contamination could be an improvised "ante-room" or de-contamination gateway at the entrance to the inner cordon (a 3mx3m tent). I have since deployed this concept operationally over the past nine years. Specialists arriving at the scene can unload equipment in normal clothing through the outer cordon via a common approach path (CAP) to the inner cordon and then "robe up". Any entry to the inner cordon can be controlled by the Crime Scene Manager (CSM) through this gateway to ensure that all personnel entering are wearing the required PPE. The preparation, discussion, donning of PPE and entrance is therefore screened from public gaze in a dignified (tented) environment, and contamination and contact with other scene personnel is restricted as only those preparing to robe up may enter the de-contamination gateway. Egress is similarly controlled and all personnel are required to remove PPE and clean their equipment before leaving the tented de-contamination gateway. Similarly all exhibits (and bodies) must be sealed prior to egress.

## **7 Forensic strategy**

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Many Forensic Strategies, agreed with the Senior Investigating Officer (SIO) prior to commencement, specifically mention contamination awareness, but I personally doubt that clear instructions and protocols are defined to negate contact with other personnel at the scene, or this would be evidenced in media coverage. It should therefore be considered that a specific protocol with reference to the establishment of a de-contamination ante room should be added to Forensic Strategies. The CSM should then ensure that the protocol is enacted. The European Network of Forensic Science Institutes (ENFSI), in their guidance for the implementation of ISO 17025, have alluded to the need for anti-contamination protocols, but are not specific in recommending the use of an

ante-room or de-contamination gateway. [http://www.european-accreditation.org/n1/doc/EA-5\\_03.pdf](http://www.european-accreditation.org/n1/doc/EA-5_03.pdf)

## **8 Scene log**

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The loggist at a major scene is fundamental to ensuring that full records are maintained of personnel attending the scene. However it is my experience that this task is often allocated to inexperienced officers and PCSO's who have very little understanding of the importance of avoiding contamination. It is obviously essential that the loggist interacts with personnel attending the scene to obtain details, but this should be achieved at the *rendez vous point* (RVP) at the entrance to the outer cordon and not after specialists have already donned their PPE.

## **9 Outer cordon**

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The perimeter of the scene is often defined by the Police tape placed by early officers attending the scene, however I have frequently found this to be too restrictive and recommend that the CSM reviews the outer cordon (with the SIOs approval) to ensure that it contains all evidence likely to be relevant to the enquiry (including areas to be searched by dogs and POLSA). The outer cordon is then defined with yellow scene tape. The CSM can then also decide upon an appropriate CAP and any necessary preservation to facilitate access to the inner cordon and de-contamination gateway.

## 10 CAP

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To ensure that vital evidence is not destroyed, needless to say the CAP must be examined or adequately preserved prior to establishment of the decontamination gateway. This exercise should include an extra few metres either side of a conventional pathway as it will need to allow for erecting the decontamination tent in an area outside of the outer cordon and “walking” it into position at the entrance to the inner cordon (which could be the doorway to a dwelling).

## 11 Scene cordons

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In my former operational area the inner cordon was defined by red scene tape to distinguish it from the conventional yellow (outer) cordon tape. If natural barriers (such as dwelling house walls) form the perimeter of the inner cordon then red tape is not essential, but should be used at the entrance to the decontamination gateway as a reminder that personnel are about to enter the inner cordon. In larger scenes where perhaps a number of loci are in close proximity, the red tape helps to distinguish one locus from another where different teams are working, which should not intermix or contaminate across adjacent areas, e.g. where a murder scene is in close proximity to suspect’s home address. Under these circumstances a separate decontamination gateway and separate CSM must be used for each inner cordoned area to maintain integrity.



## **12 Scene professionals**

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When these protocols were first introduced operationally I encountered resistance from CSI, scientists and pathologists. However as they have become more broadly used and accepted I have received feedback that the de-contamination gateway provides specialists (who need to don PPE) with a dignified sterile base or bridgehead to launch the examination which is neither exposed or inhibited by the constraints of the scene. Similarly it has become a place to retreat to for brief breaks (though not for food or drink consumption) throughout the ongoing examination and at a suitable stage, a temporary dignified resting place for the "bagged" body, pending the arrival of undertakers.

## **13 Other personnel**

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Initially, on deployment of de-contamination gateways, visits from detectives and scene security personnel during inclement weather resulted in them attempting to use the tent for shelter. However it was necessary to clearly explain that the purpose of the tent was not to provide shelter for all and sundry, and was strictly "off limits" to all but those who were preparing to enter the inner cordon. The CSM has some responsibility to liaise with logistics section in a major enquiry to ensure that alternative adequate shelter is provided for scene visitors other than the de-contamination gateway.

## **14 Other scene protection**

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It is not uncommon for improvised tents to be deployed at major scenes and often these are used to protect bodies, cars and other outside scenes. These other forms of protection must however be distinguished from the de-contamination gateway (red inner cordon tape can be useful under these circumstances). Inevitably at times it will be necessary to deploy a number of

tents depending upon exposure and the needs to protect various artefacts and areas. Most Scientific Support Units in the UK have access to a variety of shelters according to size demands. The 3mx3m tents which I formerly deployed are inexpensive enough (£120 each) to be disposable in the event of heavy soiling or wind damage. They are also easily stored and transported in a reasonable sized CSI van and quick to erect (umbrella style) with detachable sides. I have also used the same tents to extend the basic de-contamination gateway to include an adjacent temporary exhibit store area at scenes where it has been necessary to "stockpile" the day's recoveries.

## **15 RVP and services**

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At some busy scenes an "Incident Vehicle" (IV) has been deployed, equipped with radio, communications and media facilities, which provides a command post and location to brief specialists and investigators on arrival at the scene. The location of this sheltered RVP may be within a broader Police cordon, and even within a blocked road, but should also remain outside of the outer scene cordon (beyond the yellow barrier tape). I have in the past defined this as a "services" area, to which the public, press and non-police personnel should not normally have access, however because it becomes a focal point to an enquiry, particularly in an urban area, inevitably members of the public arrive to offer themselves as witnesses (casual enquirers and sightseers are politely moved on by scene security or the loggist). My reason for mentioning this RVP specifically is that it could easily become a contact point and is not suitable to be deployed as a de-contamination gateway. Furthermore, it can become a source of contamination as it is regularly deployed at other Police incidents and is far from sterile.

## **16 Conclusion**

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The integrity of evidence recovered from major crime scenes could be compromised if de-contamination protocols are not specific enough to ensure that casual contact does not occur between unprotected personnel, contaminated areas and specialists who need to examine the scene to recover vital evidence. This can be achieved by including a de-contamination gateway at the entrance to the inner cordon.

## UK Missing Persons Bureau Update

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In the last few months the UK Missing Persons Bureau has continued to support forces in reviewing all outstanding unidentified bodies/remains cases. It has also providing advice in a number of murder enquiries where questions have been asked about whether there may be further, as yet unknown, victims. Support to these major investigations highlights why it is important to ensure that all has been done to reconcile these cases with those who are missing. It is often not possible to know from the circumstances if a person is missing purposefully, or due to the actions of a third person. Therefore, if we can establish that the person's remains have been found, we can more easily determine if the case may be of interest based on likely cause of death. The more cases we can resolve, the quicker we can search through the remaining outstanding reports to determine if any might be another victim.

We have received a response from the majority of UK forces in relation to how many of their unidentified cases remain outstanding, and thank those who have provided further information about these unidentified individuals. We are still waiting for a final number from some forces, and continue to chase the information. We are also providing support to a number of the forces that are reviewing these cases to see if we can identify them, and hope that this will lead to a resolution for some families in the months to come. Thanks to a suggestion from Kent Police, we have also identified that the School of Dentistry at Cardiff University has dental records for some of the outstanding cases, which may prove to be the key to identifying some of these individuals. The relevant forces have been made aware of this, and we are in communication with the Dental School and forces to ensure the available records are added to the missing persons dental index maintained by the Bureau. This does, however, raise the question about how many other expert units may hold similar important information, and we encourage anyone who may do so to get in touch with us to discuss this.

The press release by British Transport Police in August last year has to date assisted with the resolution of four cases, and we continue to have success through the use of our DNA and fingerprint databases. Earlier this year, a partial DNA profile was received from colleagues in An Garda Síochána, Ireland, who have been trying to identify a skull found in 2010. This has been provisionally matched to a woman missing since 2009, and we are supporting the force to obtain further dental information to confirm this match. We have also used fingerprints to identify a male found dead in London who had been missing for three months, enabling the Coroner to confirm his identity and bring resolution for the family. We are also working behind the scenes to establish a website to publicise such cases, in order to enable members of the public to assist with resolving them. Despite the current climate, the importance of this resource has been recognised, and we have been provided with some funding to engage a website developer to create the necessary platform for this. We need to ensure this will not only protect the information displayed, but will also cope with the demands placed on the site. This should progress over the coming months, and we will ensure the service is publicised appropriately when it becomes available. We are always mindful of these individuals' right to be treated respectfully, even though they are deceased, and we will therefore ensure that only relevant information is included that may lead to someone recognising the individual.

The Bureau is also continuing to encourage forces to ensure we have been notified of cases. In a recent case, we were able to advise a force within an hour of receiving a missing person notification that unfortunately a body had been found that matched their details. Whilst sad, this ensured the family received the news promptly, and were not left in limbo longer than necessary.

Anyone who would like further information about our review of these unidentified cases, or about how we support missing persons investigations should contact the Bureau on 0845 000 5481, or by email to [missingpersons bureau@npia.pnn.police.uk](mailto:missingpersons bureau@npia.pnn.police.uk). For a full description of the Bureau services, go to [www.npia.police.uk/missingpersons](http://www.npia.police.uk/missingpersons).

# Operation Castorland

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**Detective Inspector Andrew Partridge**

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## **Abstract**

As any SIO will tell you, managing a homicide investigation with one victim and one suspect can be extremely labour intensive. The various facets that are unique to each case need careful consideration and planning to achieve success. Imagine then progressing a homicide investigation involving up to twenty suspects. Consider all the extra considerations for resourcing the investigation, prioritising the various lines of enquiry and then ultimately preparing the prosecution files and presenting the case at court.

This article describes such a case and explores some of the key issues around managing a 'multi handed' murder investigation. It will in particular focus on the following issues;

- Building a prosecution case on the legal concept of 'joint enterprise'.
- The strategy for the arrest and interview of multiple suspects.
- Progressing and presenting the case at court for a lengthy trial process.

The murder was carried out by suspects from a notorious London 'Street Gang' at a time when fatal stabbings of youths in London were reaching epidemic proportions. This is still a contemporary issue and organised street 'gangs' have been largely blamed for orchestrating the recent riots that swept across the UK. Therefore it is hoped that this case study will permit SIOs and IOs to contemplate how they would progress such a complicated and protracted multi handed homicide investigation.

The author works within the Metropolitan Police Service's Homicide and Serious Crime Command., dealing with murder and other suspicious deaths.

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## **1 Summary of the offence**

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The victim was with a friend walking through his housing estate in Southall on the evening of the 3rd September 2007. He was not a gang member, he resided with his disabled mother, for whom he was the main carer. He was confronted by a masked group of twenty youths. They travelled to the estate to avenge the robbery of one of their members the previous day, it was presumed that the victim was targeted as the estate where he resided was the 'home' estate of the rival gang. The victim was approached and surrounded by the group and was set upon by them without any provocation. The attack was severe and sustained, he was left with over twenty separate injuries, including five stab wounds to the head, one of which penetrated his brain and caused the fatal injury.

The gang concerned fled the scene of the attack, leaving various weapons behind and ran away from the location in various directions. The victim was taken to hospital by his friend who himself managed to narrowly evade serious injury at the hands of the gang. When the initial uniform officers responded to emergency calls for the disturbance they attended the location but could not find the attack site or victim as he had already been taken to hospital. The scene was later identified and a decision was taken to cordon off a large area of the housing estate, this included access and egress alleyways and part of a main arterial road that runs parallel to the estate. The estate itself also had a number of walkways and green areas that were adjacent to the attack site. Therefore the arrangements for the scene security and subsequent forensic and physical searches were exhaustive and had to be well organised and co-ordinated in order to harvest as much evidence and intelligence as possible, whilst facilitating access and egress for local residents. The value of the extended cordon parameters was highlighted by the recovery of a latex glove, with blood staining present found almost a quarter of a mile away from the attack site, on the main road leading away from the scene. This blood related to one of the suspects, SHELDON JOHN LEWIS (known as JOHN LEWIS), enquiries revealed he attended

a hospital shortly after the attack with an injured hand, booking himself in using false details.

The early identification of JOHN LEWIS via the forensic match and hospital enquiries then led to recovery of CCTV from a bus travelling towards the scene prior to the murder, this discovery proved pivotal. The bus CCTV caught JOHN LEWIS travelling together with nineteen other persons heading towards the scene, approximately 10 minutes before the victim was assaulted. The image confirmed what the limited scene witnesses were telling the investigation team, that a large group, travelling together, most wearing hooded tops and bandanas covering their faces carried out the attack.

## **2 Strategy for the arrest and interview of suspects**

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At the outset of the investigation it was clear that the main challenges facing the investigation team were going to be identifying all of those involved in the attack and determine what role each played in the attack. When we considered the dynamics of the group attack, the possibility existed that we may not be able to obtain reliable evidence to identify which one of the suspects actually wielded the knife that led to the fatal brain injury. The analogy being that 'the handle to the blade clearly was not long enough for all of them to have held it at the time the fatal injury was inflicted'.

Choosing the right strategy around what order to arrest the identified suspects and at what stage to carry out the arrests was an issue that needed careful consideration and planning. The team and myself were alive at the outset of the investigation to the issue of 'joint enterprise', as it would be key to running a successful prosecution to prove that the group acted in unison, that they acted together for a common purpose and that all of them entered that estate knowing that they were to avenge an earlier attack on one of their own gang members,

knowing that they were carrying weapons. The following were the key elements to examine and prove;

1. That all persons present were part of the 'gang' and therefore 'signed up' to acting together out of a sense of loyalty and belonging.
2. That we could prove the earlier attack on their own gang member took place and in doing so it highlighted that they had a reason to attend the estate, thereby establishing a viable motive.
3. That the 'coming together' of the 'gang' prior to the attack was not coincidental, but orchestrated. A large volume of telephone data requests and data downloads were undertaken to confirm this 'arrangement to meet', as opposed to a chance coming together without any purpose.
4. That the limited scene witnesses available, despite being unable to identify individuals in the attack, did fully and accurately describe the fact that on the way to the attack the group were openly armed in preparation for it.

The identification of and subsequent arrest of the suspects was subject to considerable discussion and planning. Of the twenty on the bus who travelled to the scene, JOHN LEWIS was the first to be identified and he was arrested soon afterwards. Within the next couple of weeks twelve other suspects were identified. Primarily this came from either recognition of those individuals on the bus CCTV, telephonic data requests of persons who were linked with JOHN LEWIS that matched his movements and calling patterns and forensic results that were found on items recovered from the crime scene.

A key issue to address was the timing and phasing of these other arrests to assist the investigation. Extensive research was undertaken into those identified to understand the dynamics of the gang. This was with a view to phasing the arrests to attempt to identify those 'weaker' members more likely to be the followers rather than the leaders, hoping that their predicament might prompt some to provide an account in interview. The next phase of arrests would follow and it was hoped that those getting arrested after a previous batch may believe that they had been compromised by the earlier arrests, therefore trying to breed a culture of mistrust between gang members who previously prided themselves

on loyalty. This approach had partial, but extremely significant success, it led to a number of 'cut throat' defences starting to emerge, interestingly between those who were seen as 'senior' members of the gang, or 'generals' as they referred to each other on their web pages. This phasing of the arrests had another benefit, it enabled the dedicated MIT team to process all the arrests and prisoners without outsourcing the arrests of suspects to other units within the Metropolitan Police Service. The option of a spectacular one off arrest phase for all those identified was considered, however it was felt that the adopted phased targeted approach helped ensure a dedicated team dealt with all the prisoners in a consistent manner and importantly maintained close control of the arrests, searches and prisoner processing. This could not be assured were significant outside resources obtained to assist with a one off arrest operation. This chosen strategy did present risks, it left people identified out on the streets, possibly disposing of evidence in the belief that their arrests might follow suit.

### **3 Case progression and presenting of evidence at court**

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Within two months of the offence taking place, fifteen persons were charged with murder. The remaining five were on the way to being identified from telephone data, extensive CCTV viewing and image comparison work and 'streetnames' being offered up by co-defendants during interview. One of the biggest issues now was the advance of these individuals through the criminal justice system.

The age range of the defendants was between 12 and 21 years of age. It proved, despite considerable effort being made, impossible to remand all of these defendants in custody. Initially all were remanded, however there was a constant stream of bail applications that led to the granting of bail to the very youngest offenders, that in turn led to a constant stream of bail variations, endless breaches of bail hearings and other mentions. Managing and co-ordinating the hearings and various mentions became a full time job. The

management and co-ordination of the process was vast, and looking back now I would hazard a guess that myself or one of my team was at court for various hearings and mentions twice a week for almost 9 months prior to the first trial commencing. An officer from the team was given the role of co-ordinating this process and ensuring all changes to bail and other issues were communicated to the local borough responsible for the defendants. This led to targeting of their bail conditions which in turn led to further breaches of bail, which in some cases led to custody remands.

All but one of the twenty defendants were committed to trial after a mass 'motion to dismiss' hearing largely failed. At the point of charging the defendants two nominated CPS lawyers were appointed. The planning for the trial process led to close discussions between the investigation team, the CPS lawyers and Prosecution Counsel deliberating how best to proceed with the trial process. It was certainly felt by the enquiry team that all nineteen defendants should face trial together, after all they all travelled together and all took part in the same incident, therefore it made sense that all should face trial together. This would save witnesses the unnecessary anxiety and stress of attending two trials and importantly, tactically it would prevent those defendants in different trials blaming those who were either tried before them, or other missing co-defendants yet to be tried. The CPS lawyer even mooted getting a facility big enough to hear the trial ordained as a court for the purposes of one trial. This bold idea never got off the drawing board as the considerations proved insurmountable. The trial location was set as the Central Criminal Court and a decision was taken to run two trials, with ten defendants in trial one and nine in trial two.

This separation of defendants needed consideration, learned Counsels advice was that we could not 'cherry pick' who we wanted in each trial, in effect we were left with those defendants where the strongest evidence existed placed in trial one, with the remaining defendants in trial two. It was hoped that a strong result in trial one would lead to guilty pleas for trial two, or that a strong result would assist the jury in trial two, this being more out of hope rather than

expectation, considering the trial judges directions would warn against such an inference being drawn.

#### **4 Presentation of evidence at court**

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Even before the trial configurations were settled it was clear that presenting the case at court would be complex, not least due to the physical constrictions of running a trial with so many defendants. There were ten defendants in the dock, twenty two Counsel for the prosecution and defence teams, noting briefs for counsel for the second trial and a large number of other officials, such as carers for defendants on remand to secure establishments, with a small cubby hole tucked out of the way for the investigation team.

It was identified at an early stage that presenting a large amount of CCTV telephonic and other multi media evidence was going to prove demanding. With that in mind I contacted the Metropolitan Police Directorate of Forensic Services, Forensic Presentation Department. They were in the early throws of developing an evidential presentation system called FOCUS. In essence this is a computer system that stores all of the technical, photographic and electronic evidence from the investigation. It enables an operator to bring up material quickly and professionally, for example the scene photographs, juxtaposed with a map of the scene, or CCTV of the defendants travelling on the bus overlaid with the mobile phone evidence plotting their movements and phone calls. Importantly the system allowed for fast time editing, therefore you load all of the evidence on the hard drive, pick and play any segments you wanted in any order. This meant that any objections as to what was to be shown to the jury, could be resolved in minutes as opposed to hours, negating the need for overnight trips to the lab to reproduce new material.

This system allowed for a professional presentation of the evidence in a manner that made it simple to use for the operator and easy to digest for the jury. Upon identifying the equipment our murder was to be the first homicide case to trial the product. Prosecution Counsels and CPS support was attained after a presentation of the system was delivered to them.

The use of this equipment was important in allowing for the case against each defendant to be put individually before the jury, but importantly it helped show how all of the defendants acted together as a group.

The case had a significant amount of multimedia evidence, for example captures of defendants facebook pages on which they could be seen rapping about their loyalty to the gang, glorifying violence and the use of knives, material which we knew as a prosecution team we could never get admitted in a 'bad character' submission, but duly admitted upon application by defence counsel properly putting and exploring his own clients defence in a vicious 'cut throat' that developed during the trial first.

At the conclusion of fourteen weeks at court, all ten defendants were convicted, three for murder, one for manslaughter and the rest for conspiracy. The trial was deemed a complete success and after a short break we embarked upon trial two. At the outset we knew these were the defendants we had the lesser evidence against, nothing forensically to link them to weapons found near the scene and defendants who did not present any issues against each other that could be exploited during the trial. Their involvement was largely down to the fact that they were part of the same group that travelled to the scene and therefore were acting together in unison. This trial lasted twelve weeks and resulted in the jury being unable to decide verdicts on some of the defendants and acquittals of the remaining defendants.

## **5 Operational lessons**

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As stated at the outset, every homicide investigation is unique, what suits one may not suit all. That said the following are the 'key' lessons to be learnt from this investigation.

- An extensive and robust strategy around the scene was critical to the investigation's success. Even though the escape route of the suspects was unknown, a large area was cordoned off, resulting in significant exhibits being found some distance from the attack site. The old adage, start big, you can always scale it down later was proved correct in this case.
- Where multiple suspects exist, develop a flexible approach to determining when you arrest, who you arrest and what you seek to achieve from any interview process. Utilise specialist officers, advice from a 'Tier 5' interview planner was sought to assist with shaping the interview plan in order to add value to the investigative process.
- When embarking upon a multi handed complex case, consider at the outset how you intend to present that evidence. The FOCUS system is such that loading, processing and converting certain multi media evidence cannot be assured in short time frames. The earlier you prepare, the better prepared you are.
- Where the number of defendants means that there will be separate trials hearing the same evidence, try to ensure that the mix of individual at each trial reflects the gravity of the offence.

## **6 Conclusions**

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The investigation and trial process took almost eighteen months to complete, with the trials alone taking twenty six weeks. At the outset of the investigation it was the objective of the team to identify all twenty offenders captured travelling to the scene and playing some part in the attack. Having worked on numerous homicide investigations, I can say without reservation that the progression of

this case was akin to prosecuting twenty separate murder enquiries, most significant was the gigantic effort and perseverance required to undertake and complete the trial process.

With the benefit of hindsight I wished I had been more robust with determining which defendants slotted into which trial. I still believe that the court system should have enabled the trial of all the defendants together. I understand that this carries its own risks, not least expecting a jury to follow the individual evidence for twenty defendants. In essence our perceived strength after the successful convictions in the first trial became a weakness for the second process. It was turned around by Defence Counsel undertones suggesting that the first trial was indeed for all the murderers and that this trial was for the remaining persons who played little or no active part in the attack. In a meeting with the trial judge post the sentencing process, we sought his views on progressing such large numbers of defendants in future trials, however, as each case must be considered on its own merits, no firm guidance could be provided.

This investigation clearly relied heavily upon the principles of 'joint enterprise' culpability for commission of a crime. The gang involved in this murder were responsible for another murder in London only months before this incident. The Homicide and Serious Crime Command in London currently undertake presentations to schools and other youth groups regarding the dangers of carrying a knife, and specifically the position you put yourself in if you are with someone and they use a knife to carry out an attack. This education process is not aimed at 'wising up' future criminals, but genuinely aimed at preventing other attacks and murders. It is also aimed at challenging individuals about their actions and behaviour when they meet up together and the individual then assume the mentality of a gang. It is my view that none of my defendants would have travelled alone to carry out this murder, however together they became a totally different entity, the dynamics of which became larger than the sum of the individual constituent parts present.

## Book Review ~ Discovering Through Death: Beliefs and Practices.

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### **Suleman Nagdi, MBCOL**

Meeting the relatives of homicide victims, or those killed in accidents or unexplained deaths that are under investigation is difficult at the best of times. We naturally want to be sympathetic and ensure that they are dealt with sensitively whilst at the same time ensuring that the needs of the investigation are met. This never feels easy, but when different faiths, cultures and languages are thrown into the mix, many of us feel that we are treading on eggshells because we often don't know enough about the needs of some groups. Good FLO support is essential at such times and we are lucky that this role is now well developed and is usually available when we need it. Furthermore, FLOs often have networks of advisors from different cultures or faith groups who they can call on when required.

Despite this level of support, SIOs still need a good personal knowledge of the needs of different groups when sensitive issues, such as, the use of invasive post mortem techniques, early release of bodies and tissue retention are raised.

This book provides an overview of the key beliefs and practices of the world's main faith groups and looks in more detail at how each approaches death and bereavement, which are dealt with under the headings:

- What happens after Death?
- As Death Approaches
- The Moment of Death
- Preparing the Body
- Method of Disposal
- Funeral Customs
- Mourning Practices

The book developed from earlier work by the Muslim Burial Council of Leicestershire and a short section at the front of the book focuses on local good practice in that area. This does not detract from the overall value of the book because the majority of the content is applicable anywhere.

Those involved in homicide and major incident investigation will find that this book adds to their overall knowledge of how different faiths deal with death and it will provide a valuable reference point when dealing with individual cases.

Copies of the book can be obtained directly from the Muslim Burial Council of Leicestershire [www.mbccl.org.uk](http://www.mbccl.org.uk) for £3 per copy which covers their publishing and postal costs.

## Book Review ~ The Ascent of the Detective: Police Sleuths in Victorian and Edwardian England

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Haia Shpayer-Makov

Oxford University Press

During the first half of the eighteenth century policing was transformed from a patchwork of ad-hoc local arrangements to what historians generally now call the 'new police'. There was much politicking and experimentation along the way, and plenty of disagreement about the best way to proceed. But almost everyone was agreed on one thing, whatever else they were to be, the new police were not to be a detective force. Detectives were universally despised as a foreign invention whose purpose was to spy on individuals and curtail personal freedom. Despite this view, by the end of the same century detectives had become an established part of the police service and were portrayed as popular heroes in the media.

Shpayer-Makov sets out to explore how this transformation came about. As well as drawing on official documents and contemporary media, the text is peppered with material from the memoirs of detectives themselves, which provide a fascinating insight into how they viewed the world and their place in it.

Much, though not all, of the focus is on developments in the Metropolitan Police. This could be thought to be somewhat old fashioned given that recent historical scholarship has shown that the development of modern policing was not as dependent on events in London as previous generations assumed. However, the focus is ultimately justified because the popular image of detective work during this period did undoubtedly depend on the work of the relatively small number of detectives based at Scotland Yard.

The book is in two sections. The first explores the origins of the new police, how the detective function came about and why they continued to be recruited from the uniformed ranks despite many calls for direct entry to a separate specialist body. It also explores the social backgrounds of the early detectives and how

they forged a distinct professional practice which spread nationally and internationally. The second part explores the key role the media played in influencing public perceptions of their work. Then, as now, the majority of people had no direct contact with crime or detectives and so their views were formed through journalism, detective fiction and a small number of detective memoirs. With few exceptions, these painted a positive, if highly romanticised, version of the detective role and it was this that drove their professional standing upwards during this period.

Although Shpayer-Makov keeps a clear focus on the historical evidence and makes no reference to contemporary issues, the parallels will be striking and fascinating to present day detectives. The continual battle with government over funding, the tension between uniform commanders and those managing detectives, questions over the adequacy of training and professional development and a range of other issues that are still with us today were problems from the very inception of the detective role. But it is the Faustian pact with the media that will probably strike the loudest chord with anyone familiar with major crime enquiries. We complain endlessly of their intrusiveness, the demands they make on resources and their partial and sometimes unhelpful reporting of cases, but we complain even more if we can't get a case covered or they ignore a good result. Shpayer-Makov shows that it was always thus, from the outset, the media saw crime investigation and the detectives who carried it out as good copy and our predecessors were not slow to exploit this in the interests of individual cases and their own careers.

This is a social history, aimed mainly at an academic audience, and the book is heavily referenced and indexed, but the writing style is accessible and anyone with an interest in the history of criminal detection will find it makes a valuable contribution to their knowledge of the subject.