

Investigation introduction

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The **Code of Practice to the Criminal Procedure and Investigations Act 1996 (CPIA)** defines a criminal investigation as:

An investigation conducted by police officers with a view to it being ascertained whether a person should be charged with an offence, or whether a person charged with an offence is guilty of it.

Investigations may be carried out in relation to:

- crimes that have been committed
- identifying whether a crime has actually been committed, with a view to commencing criminal proceedings
- crimes that the police believe may be committed, for example, when premises or individuals are kept under observation for a period of time, with a view to the possible institution of criminal proceedings

Investigations can be either reactive or proactive.

Criminal investigator

The **Code of Practice to the Criminal Procedure and Investigations Act 1996 (CPIA)** defines a criminal investigator as:

...any police officer involved in the conduct of a criminal investigation. All investigators have a responsibility for carrying out the duties imposed on them under this code including, in particular recording information and retaining records of information and material.

An investigator may be a warranted officer or member of police staff. **Section 38 of the Police Reform Act 2002** allows chief officers to designate police staff as investigating officers.

There is a wide range of generic roles that may be involved in investigations. These can be searched via **Skills for Justice**. PIP level 2 and 3 investigators are likely to have their own caseload of investigations, commonly involving serious or complex crime, but may also provide advice and support to PIP level 1 investigators involved in volume crime.

Experienced offenders may try to prevent material from being gathered. Maintaining a current knowledge of criminal law will assist investigators to deploy the full range of investigative techniques, thereby helping to prevent offenders disrupting the process.

Principles of investigation

There are a number of investigative principles which are widely accepted within the police service. The principles are underpinned by the recognition that policing works best where it has the support and cooperation of the community.

These principles propose that:

- the exercise of legal powers should not be oppressive and should be proportionate to the crime under investigation
- as far as is operationally practical and having regard to an individual's right to confidentiality, investigations should be carried out as transparently as possible – victims, witnesses and suspects should be kept up to date with developments in the case
- investigators should take all reasonable steps to understand the particular needs of individuals, including, but not limited to, any protected characteristics they may have, in order to comply with the provisions of the Equality Act 2010
- investigators should have particular regard for vulnerable people and children
- investigators should respect the professional ethics of others. This is particularly important when working with those whose role it is to support suspects

These principles, the investigation process, and an investigative mindset provide a structure to support quality investigations.

Ethics

The activities and processes of criminal investigation can attract considerable attention, partly due to media coverage of crime and criminal behaviour, but also because of the impact crime has on individuals and communities.

To build and maintain public confidence, the police have a responsibility to ensure that investigations are carried out professionally, **ethically**, and to an agreed standard. Under the remit of the national policing crime business area (CBA) portfolio, the professionalising investigation programme (PIP) was introduced to support this quality approach to investigations.

The success of an investigation relies on the goodwill and cooperation of victims, witnesses and the community. Investigators should be aware that:

- investigations should be conducted with integrity, common sense and sound judgement
- heavy-handed, discriminatory or disproportionate actions risk losing cooperation and any future criminal proceedings
- effective investigators maintain a balance that recognises the concerns of all the parties involved
- understanding the response to crime assists investigators to build this relationship
- a professional approach to investigations benefits the victim, the public and the police

Investigative skills

Investigators need to be skilled in the following areas:

- the planning required to conduct an investigation and the investigative process
- decision making and how it can be improved by applying the investigative mindset
- investigative and evidential evaluation (which can assist the investigator to determine the value of material gathered during the investigation)
- creative thinking
- challenging experts
- victim and witness care

Where routine investigative actions have failed to gather sufficient material, investigators should explore alternative methods. Creative thinking may be required to determine the most appropriate type of action that is needed to progress an investigation, but this does not mean that the high legal standards and integrity expected of investigators should be compromised.

Investigators need to be open to the ideas and experiences of others. Colleagues and supervisors are a readily available source of investigative information and investigators should consult them when trying to identify the most appropriate action to take in any given case.

Most forces have various specialist investigation units, such as intelligence or covert policing teams, which are a valuable source of information about specific types of investigation techniques.

Effective investigations

Actions taken during an investigation must be proportionate to the crime under investigation and take account of local cultural and social sensitivities.

The police service enjoys a high level of support, but this can be undermined in specific instances and among specific communities if they lose confidence in the effectiveness of the police or the way in which police powers are exercised.

Benefits

Every investigation provides the individual investigator and the police service with a unique opportunity to recognise and understand the impact of criminality on a community. This knowledge can be used to set local priorities.

Conducting ethical investigations helps to ensure that individuals and communities have confidence in the effectiveness of the police service and in the fairness of the processes and techniques they use.

Gaining the support and confidence of communities also helps to cultivate sources of intelligence for the future and reduce the fear of crime.

Investigators should remember that offenders are members of communities too and can influence others about the police. Offenders may become victims and witnesses themselves. If they believe that they have been treated ethically during an investigation, they are less likely to form, and communicate a negative view of the police to others, and are more likely to cooperate with investigations in the future.

Nationally, the integrated offender management framework allows partner agencies to work together to ensure that offenders are managed in a coordinated way.

Volume crime

[ACPO \(2009\) Practice Advice on the Management of Priority and Volume Crime \(The Volume Crime Management Model\) \(Second Edition\)](#) defines volume crime as:

...any crime which, through its sheer volume, has a significant impact on the community and the ability of the local police to tackle it. Volume crime often includes priority crimes such as street robbery, burglary and vehicle-related criminality, but can also apply to criminal damage or assaults.

See [PIP level 1](#).

Serious crime

Serious crime is defined in [section 93\(4\) of the Police Act 1997](#) as:

'Conduct which:

- (a) involves the use of violence, results in substantial financial gain or is conducted by a large number of persons in pursuit of a common purpose or
- (b) the offence or one of the offences is an offence for which a person who has attained the age of twenty-one and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more.'

See [PIP level 2](#).

Joint and major incident investigations

A joint investigation is where two or more agencies are involved. Each authority may approach the investigation from a different perspective, working to different objectives. Areas such as command, jurisdiction, procedures and powers must be clearly defined.

During the course of a major incident investigation, a large amount of information is received from numerous sources and this requires the support of the major incident room. All information received must be recorded in a manner that enables efficient retrieval and analysis.

If the investigation includes a multi-agency response those responding and investigating will follow the **Joint Emergency Service Interoperability Principles (JESIP)**.

For further information see:

- APP on **civil emergencies**
- **PIP level 3**
- **PIP level 4**
- **ACPO (2005) Major Incident Room Standardised Administrative Procedures (MIRSAP)**

Characteristics of crime

Crime can be placed into three broad categories:

- acquisitive crime, for example, theft
- crimes against the person
- crimes against society (sometimes known as victimless crimes)

The types of crime in each category show that they vary widely in:

- circumstances in which they are committed
- those involved (and the link to the circumstances of the crime)
- the types of victims
- the motives of offenders
- criminal behaviour
- the methods used to commit the crime (see modus operandi)
- the degree of planning involved

The volume and distribution of material available for the investigator to gather will also vary.

For example, although shoplifting and commercial fraud are both property crimes, they generate quite different types and volumes of material because of the different ways in which these offences are committed. The ways in which victims, witnesses and offenders are likely to behave also mean

that investigators can be faced with numerous sources which may produce material. See [working with victims and witnesses](#) and [working with suspects](#).

Making appropriate decisions requires knowledge of some of the factors involved. A number of sources of information may assist this decision making.

Information sources

The following may help the investigator make decisions:

- colleagues and supervisors
- National Crime Agency (NCA) Major Crime Investigative Support (MCIS)
- experts (for example, crime scene investigators (CSI), fingerprint experts, forensic scientists, forensic psychologists, police search advisers (PolSA))
- crime and criminal intelligence databases (local, force, national)
- other databases (for example, police online knowledge area (Knowledge Hub), serious crime analysis section)
- local and national media
- police journals
- Home Office science, research and statistics documents
- seminars
- briefings
- internal reviews
- national police library

Response to crime

Investigators must understand the ways in which victims, witnesses and offenders are likely to respond when a crime is committed and how best to obtain material from them. This requires knowledge of:

- potential intelligence sources, both overt and covert, for example, open source and covert human intelligence sources (CHIS), that are available within a community and are capable of providing material
- the range of communities in their local area ('community' includes occupational groups, social groups and others who may meet infrequently due to a shared interest or a shared use of an area

or facility)

- persistent and problematic offenders within the area and their networks of associates who may also be involved in their criminal behaviour, for example, the disposal of stolen goods
- the personal and social needs of witnesses and offenders, bearing in mind the duty to provide reasonable adjustments, which may be relevant when investigating crime (see [ECHR, equality and the duty to engage](#)) – the police service is committed to providing services that respond to the needs of different communities, and to protecting all communities (particularly those most vulnerable) from harm or threat (see [Equality, Diversity and Human Rights Strategy for the Police Service](#))

Investigators should acquire detailed knowledge of the modus operandi employed by offenders in their area.

Modus operandi

Being aware of an offender's modus operandi (MO) helps the investigator to:

- understand how a particular crime has been committed, the type of material that may have been generated in the commission of the offence and how or where this material might be recovered
- identify linked series of crimes committed with the same MO, (pooling material from a linked series of crimes can be a highly effective way of progressing an investigation)
- identify links between crimes and known offenders who use the same MO
- predict future offending patterns, which may enable preventive or protective measures to be taken
- predict future offending patterns, which may enable offenders to be caught red-handed
- identify likely disposal routes and markets for stolen or illicit property, for example, drugs

Useful knowledge on criminal investigations can be obtained from national and local intelligence briefings and individual intelligence and crime reports.

Victims, witnesses, community

In addition to carrying out effective investigations, victims, witnesses and communities expect the police service to provide:

- security
- victim and witness support

- reassurance

By building a relationship with victims and witnesses, the investigator is able to keep them informed about the various resources available to them, for example, victim support, crime reduction advice and reparation schemes.

By engaging with suspects, the investigator has an opportunity to obtain material relating to criminality in the local and wider community. This then assists in reducing crime and the fear of crime in the community. Integrated offender management is an effective approach which may prevent or reduce repeat offending.

For further information see:

- [**Working with victims and witnesses**](#)
- [**APP on engagement and communication**](#)

Evidence

It is the duty of prosecutors to make sure that the right person is prosecuted for the right offence, and to bring offenders to justice. Casework decisions made fairly, impartially and with integrity help to deliver justice for victims, witnesses, defendants and the public.

Prosecutors must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge. They must consider what the defence case may be, and how it is likely to affect the prospects of conviction. A case which does not pass the evidential stage must not proceed, no matter how serious or sensitive it may be.

A realistic prospect of conviction is an objective test based solely on the prosecutor's assessment of the evidence and any information received about the defence that the suspect might adduce. It means that an objective, impartial and reasonable jury properly directed or bench of magistrates or judge hearing a case alone, and acting in accordance with the law is more likely than not to convict the defendant of the charge alleged. This is a different test from the one that the criminal courts themselves must apply. A court may convict only if it is sure that the defendant is guilty beyond all reasonable doubt.

Relevance

The test of relevance is:

...evidence which makes the matter which requires proof more or less probable.

Lord Simon of Glaisdale in DPP v Kilbourne (1973) AC 729, p 756

The standard of proof in the criminal courts is proof beyond reasonable doubt.

Just as there is evidence on behalf of the prosecution so there may be evidence on behalf of the prisoner which may cause a doubt as to his guilt. In either case, he is entitled to the benefit of the doubt. But while the prosecution must prove the guilt of the prisoner, there is no such burden laid on the prisoner to prove his innocence and it is sufficient for him to raise a doubt as to his guilt; he is not bound to satisfy the jury of his innocence.

Viscount Sankey L C in the judgment in Woolmington v DPP [1935] AC 462

Circumstantial evidence

This evidence can be defined as evidence of the circumstances surrounding the offence, or an event from which a 'fact in issue' may be inferred. This form of evidence is especially relevant in situations when crimes are committed and there are no witnesses present. Common examples of situations when circumstantial evidence would be relevant are:

- where a person is found in possession of recently stolen goods and offers no explanation or offers one that is deemed to be false, the jury may infer that he or she stole or dishonestly handled the goods, depending on the circumstances
- when fingerprints are found at the scene of a crime, in the absence of an innocent explanation to account for the prints, the jury can infer the identity of the offender
- when inferences from silence are sought in terms of the Criminal Justice and Public Order Act 1994

There is a perception that circumstantial evidence is weaker than direct evidence, however, Lord Hewart CJ in the decision of *R v Donovan* (1930) 21 Cr App R.20 stated:

It has been said that the evidence against the applicants is circumstantial: so it is, but circumstantial evidence is very often the best. It is evidence of surrounding circumstances which, by undesigned coincidence, is capable of proving a proposition with the accuracy of mathematics. It is no derogation of evidence to say that it is circumstantial.

Admissibility

The court will decide on the admissibility of the evidence, but generally evidence will be ruled inadmissible if:

- it is hearsay and does not fall within the categories specified under [**section 114**](#) of the Criminal Justice Act 2003 which permits the admission of such evidence
- it is the opinion of a non expert
- it is withheld as a matter of public policy
- the witness is incompetent to give such evidence on the basis that he or she does not understand the questions put, and is unable to give understandable answers – see [**section 53**](#) of the Youth Justice and Criminal Evidence Act 1999
- it is a confession which does not meet the admissibility requirements of [**section 76**](#) of the Police and Criminal Evidence Act 1984 (PACE)
- the evidence falls within the provisions of PACE, s 78. For further information see the [**CPS website**](#)

For further information see [**R v Campbell \[2005\] EWCA Crim 248**](#).

PACE provisions

Section 78 PACE

Exclusion of unfair evidence. See [**PACE**](#).

Section 78(1) PACE

In any proceedings the court may refuse to allow evidence to be given on which the prosecution proposes to rely if it appears to the court that, having regard to all the circumstances, including the circumstances in which the evidence was obtained, the admission of the evidence would have such

an adverse effect on the fairness of the proceedings that the court ought not to admit it.

Section 78(2) PACE

Nothing in this section shall prejudice any rule of law requiring a court to exclude evidence.

Section 78(3) PACE

This section shall not apply in the case of proceedings before a magistrates' court inquiring into an offence as examining justices.

Best evidence

Best evidence has come to mean primary evidence or 'first-hand evidence' (eye witnesses or the original document). Secondary evidence, however, will be admitted under certain conditions. Lord Denning stated:

Nowadays we do not confine ourselves to the best evidence. We admit all relevant evidence. The goodness or badness of it goes only to weight and not to admissibility.

Lord Denning in the decision of Garton v Hunter (1969) 2 QB 37

The jury will be advised to attach more weight to the evidence of primary sources. It is the duty of an investigator to look for all relevant information and to place all the admissible evidence uncovered before the court, irrespective of which side it supports.

Technological advances mean that best evidence may be a recording of what might have been seen or heard. Evidence captured in this way can have considerable advantages in respect of interviews with suspects, significant witnesses and others.

An investigator should strive to 'set the scene' for the court and jury. Accordingly, any relevant evidence about the circumstances surrounding the commission of the crime should be sought as it can usually be presented to the court.

Bad character

Previously, evidence of bad character fell within the category of inadmissible evidence, however, this has been changed by the Criminal Justice Act 2003 (CJA).

The Act provides for the admissibility of previous convictions in support of the propensity to commit like offences and/or to be untruthful. Common law rules in the main are abolished.

Bad character evidence is evidence of, or a disposition towards, misconduct rather than evidence relating to the facts in issue. Misconduct includes the commission of an offence or other 'reprehensible behaviour'.

For further information see [**Bad character of the defendant\(s\) and non-defendant\(s\)**](#).

Legal powers

Investigators have access to a range of legal powers that enable them to conduct effective investigations.

- Criminal Procedure and Investigations Act 1996 (CPIA)
- Regulation of Investigatory Powers 2000 (RIPA)
- Police and Criminal Evidence Act 1984 (PACE)
- Human Rights Act 1998 (HRA)
- Equality Act 2010
- Youth Justice and Criminal Evidence Act 1999 (YJCEA)

Under certain conditions, these powers allow investigators to deprive individuals of their liberty, use reasonable physical force, enter their homes or other private premises, gain access to private information and to deploy intrusive surveillance techniques.

Investigators have a high level of discretion in how they choose to use these powers.

RIPA

Prior to this Act, covert police investigations were governed on a non-statutory basis by Home Office guidance. Following a series of judgments by the European Court of Human Rights (ECtHR), it was made clear that a non-statutory authorisation regime in respect of these techniques was insufficient. To ensure compliance with the ECtHR's decision, RIPA was introduced to provide a statutory framework for the use of covert techniques.

The Act allows for the lawful interference with the right to respect for private and family life, under Article 8 of the European Convention on Human Rights, in justified circumstances where law enforcement agencies can show that such interference is necessary, proportionate and in accordance with a legitimate aim.

Circumstances which would permit the use of covert techniques under RIPA include where it is necessary:

- in the interests of national security
- for the purpose of preventing or detecting crime or of preventing disorder
- in the interests of the economic wellbeing of the UK
- in the interests of public safety
- for the purpose of protecting public health
- for the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department
- for any purpose not falling within the above, but which is specified by an order made by the secretary of state

PACE

The **Police and Criminal Evidence Act 1984 (PACE)** provides the powers the police need to investigate crime. PACE sets out to strike the right balance between powers of the police and the rights and freedoms of the public. It covers areas such as search, detention in custody, interviewing, arrest and a range of police powers, many of which will feature in every investigation. It is supported by the PACE Codes of Practice.

HRA

The **Human Rights Act 1998 (HRA)** applies to all public authorities. It incorporates the Articles contained in the European Convention on Human Rights (ECHR) into domestic law, making it unlawful for public bodies, including the police service, to act in a way which is incompatible with the Convention.

Paragraph 1 of Schedule 1 to the HRA lists the Articles under the ECHR. Those listed below are those most relevant to operational policing and include the following rights:

- Article 1 Protection of property
- Article 2 Right to life
- Article 3 Prohibition of torture
- Article 4 Prohibition of slavery and forced labour
- Article 5 Right to liberty and security
- Article 6 Right to a fair trial
- Article 7 No punishment without law
- Article 8 Right to respect for private and family life
- Article 9 Freedom of thought, conscience and religion
- Article 10 Freedom of expression
- Article 11 Freedom of assembly and association
- Article 12 Right to marry
- Article 14 Prohibition of discrimination

For further information see [**Police obligations**](#).

Article 14

Article 14 is not a stand-alone right and must be used alongside another Article. When talking about 'discrimination' in this context, it means the right to enjoy a convention right free from discrimination. In domestic terms, the Equality Act 2010 is designed to express most of the principles explicit or implicit in Article 14 in statutory terms.

Under [**section 149 of the Equality Act 2010**](#), there is a duty for public authorities to consider equality in all decision-making processes.

[**Section 8\(1\) of the Human Rights Act \(HRA\)**](#) allows a court, which has found that an act or proposed act of a public authority is unlawful, to grant such relief or remedy, or make such order, within its powers as it considers necessary.

Victim of a violation

[**Section 8\(1\) of the HRA**](#) can be used to found a claim for relief, including damages against a public authority. However, it is important to note that there is no automatic entitlement to damages under the HRA and the court is not bound to award damages to victims in all cases.

A victim includes anyone directly affected by the actions or inactions of any public body. A victim may include an applicant who has not yet suffered the consequences of an alleged breach of the ECHR by a public authority, provided there is a real threat of their being affected by it in the future.

Types of victim

A victim is someone who is personally affected by the alleged violation (but it is not necessary to show that a detriment has been suffered).

A potential victim is a person who is at risk of being directly affected by a law or administrative act. An indirect victim is a person who is immediately affected by a violation which directly affects another.

A person who is likely to be subject to surveillance by the police as part of an investigation may be able to use the HRA, even though they have not yet had their privacy interfered with.

Police obligations

The HRA principally affects investigations by placing a number of obligations on the police service which must be met in order to support the lawful interference with the rights of an individual. This varies on a case-by-case basis and depends on individual circumstances and the presence of a sufficient legal basis being present.

The police must be able to show that their activities:

- are in accordance with the law
- are necessary in a democratic society in pursuit of one or more legitimate aims specified in the Article
- are proportionate to the aim pursued

These principles can be expanded into the following, which should underpin all investigations:

- that there were reasonable grounds to suspect some knowledge or involvement relevant to the criminal offending or disturbance of the peace
- that the proper procedures have been followed, recorded and all actions were authorised

- that the nature of the interference is proportional in its seriousness to the matter being investigated
- all the options were considered and all the relevant factors recorded
- that the methods used were necessary for the purpose of the enquiry

YJCEA

The **Youth Justice and Criminal Evidence Act (YJCEA) 1999** allows for special measures for certain groups of people who are involved in the criminal justice process. In 2011 amendments to the Coroners and Justice Act 2009 altered special measures provisions.

Part II of the YJCEA deals with vulnerable and intimidated witnesses. The Act has identified categories of persons who are to be considered as vulnerable or intimidated witnesses and, accordingly, may be afforded special measures during an investigation and at any court appearances. **Section 16** covers witnesses who are eligible because of age (under 18 years) or incapacity, and **section 17** covers witnesses who are eligible on the grounds of fear or distress about testifying. Some witnesses fall automatically into the vulnerable or intimidated witness categories, so are eligible for special measures.

Special measures and the admissibility of evidence from witnesses afforded such measures is a matter for the court to decide. However, the investigator needs to:

- be aware of any witness or defendant who may require special measures
- take appropriate steps when obtaining evidence
- give the potential witness enough information to allow them to decide whether they require special measures

For further information see:

- **Working with victims and witnesses**
- **MOJ (2022) Achieving Best Evidence: Guidance on Interviewing Victims and Witnesses, and Guidance on Using Special Measures**

Amendments

The impact on special measures as a result of the 2011 changes to the Coroners and Justice Act 2009 is to:

- raise the upper age limit of child witnesses automatically eligible for special measures from those under 17 to include those under 18
- provide child witnesses with more choice and flexibility about how they give their evidence
- make specific provision for a supporter to the witness to be present in the live-link room
- extend the automatic eligibility for special measures to witnesses in gun or knife crimes
- make special provision for the admissibility of video-recorded evidence-in-chief of adult complainants in sexual offence cases in the crown court

Legal knowledge sources

- Home Office circulars
- Force orders
- Media
- Conferences and seminars
- Legal databases, for example, PNLD
- Legal digests
- Police journals
- Force crime training departments
- Daily or extended briefings
- Internet

For legal definitions of offences, points to prove, potential defences from statute and case law, see the [PNLD website](#).

Professionalising Investigations Programme

The aim of the Professionalising Investigations Programme (PIP) is to ensure that staff are trained, skilled and accredited to conduct the highest quality investigations. It was originally introduced as a national policing CBA lead project, commissioned by the Home Office working in partnership with the College of Policing and Skills for Justice.

The PIP structure involves a series of levels. These are:

- PIP level 1 – priority and volume crime investigations
- PIP level 2 – serious and complex investigations

- PIP level 3 – major investigations
- PIP level 4 – strategic management of highly complex investigations

PIP identifies key learning and development for investigators in new or specialised roles, and standards of competences in investigation and interviewing.

The **PIP policy** provides clarity on eligibility and career pathways for all levels. Failure to comply with this policy could affect the perception and ability of law enforcement to carry out its function professionally, ethically and effectively in respect of priority and volume, serious and complex, and major crime investigations. The policy reflects best practice across law enforcement.

Tags

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