

Brake response to Department for Transport Road Collision Investigation Branch consultation

Submitted Thursday 9 December 2021

We have responded to a December 2021 **consultation about the creation of a Road Collision Investigation Branch**. Our charity has long advocated for an independent agency to provide the necessary evidence to learn from crashes, as information about the perceived cause of a road crash is currently recorded by police at the time of a collision, but only provides basic insights which simply are not adequate to properly investigate and determine the most effective countermeasures to tackle future road casualties.

Our response is given below and you can find out more on our road collision investigation campaign page [here](#).

Question 1: Are you replying on behalf of an organisation or as an individual?

Brake response: Organisation, Brake, the road safety charity

Question 2: To what extent do you agree or disagree with the creation of a Road Collision Investigation Branch (RCIB), to independently investigate road traffic collisions to improve road safety?

Brake response: Agree strongly

Question 3: It is proposed that an RCIB would have three main responsibilities:

- to have a singular focus on analysing the causes of collisions;
- to look for patterns emerging from the data, across police and highway authority boundaries where this data is currently only examined locally; and
- to make independent safety recommendations for action.

We anticipate safety recommendations from an RCIB being used to inform decisions made by relevant statutory oversight bodies as to whether enforcement action is required. It is proposed that an RCIB would not, however, apportion blame or liability, unless that was necessary to achieve its objective of improving safety.

To what extent do you agree or disagree with the proposed responsibilities an RCIB would have, as outlined in this document, and why?

Brake response: Agree

We agree with the three main responsibilities and believe strongly that the first bullet point should be amended: “to have a singular focus on investigating and analysing the causes of collisions”. Adding the word “investigating” is important because it reflects the core role and purpose of the Road Collision Investigation Branch. We propose that a proportion of road collisions will be investigated by the RCIB directly, at the discretion of its Chief Inspector of Road Collisions, including those recommended by the

Law Commission (involving Automated Vehicles) and these will be prioritised based on the potential for learning and future harm prevention.

With regard to the second bullet point, we suggest this is changed to “to look for patterns emerging from all data available from all sources”, in recognition that there are multiple sources not just those listed, including research studies (e.g. RAIDS, National Highways Fatals Research, information from hospitals also), as well as data 'from across police and highway authority boundaries where this data is currently only examined locally'. The RCIB must have access to all the available intelligence to inform the identification of the oftentimes complex causes of road collisions.

With regards to the third bullet point, we strongly recommend this is changed to read 'make independent safety recommendations for action that are required to be considered within the governance of road safety.' This is because identifying causation and making recommendations for change is a crucial aspect of risk management governance, and while it must be independently undertaken, recommendations must then, through an established process, feed into consideration of next steps to save more lives. The RCIB must have the authority and strength of voice, and formalised process required, to enable authoritative and life-saving developmental direction of road safety interventions. It must be independent, but part of the governance and leadership set up (hence important to be administered through DfT).

Question 4: What other responsibilities, if any, do you think the RCIB should have and why?

Brake response: To investigate collisions, including attending the scene where this will provide valuable insight into their causes. The typology and characteristics of collisions to be investigated by the RCIB will be informed by analysis of emerging trends and by 'gap analysis' techniques designed to prioritise areas for further investigation. By having the ability and requisite powers to investigate the causes of a sample of collisions, this will accelerate the dissemination of timely and effective safety learning. The RCIB must monitor the real-world operational safety performance data of Advanced Driving Assistance Systems (ADAS) and Automated Vehicles (AVs) as they become a reality on our roads. This will capture data on near-miss events and help to identify the factors that may lead to similar events or potentially ones where the consequences would be far worse.

More broadly, there should be a clearly established Safe System focus for the Branch, relating to all matters of causation, such as road infrastructure and vehicle design as well as the inter-connection of these things with driver behaviour. A Safe System approach to reviewing crash causation can fall outside the remit of a police crash investigation motivated primarily and distinctly to identify criminal offence (generally driver and fleet management criminality).

Accordingly, an RCIB will be the UK's centre of excellence for the Safe System investigation of road collisions and their full breadth of causation, providing access to multi-disciplinary experts, capable of the forensic reconstruction of road collisions to determine their causes and the causes of the resulting injuries and deaths. This will include and not be limited to expertise in accessing and validating electronic data (including in-vehicle data, such as from Event Data Recorders, telecommunications, CCTV and infrastructure-based data), biomechanics (mechanisms of injury), human factors and behavioural expertise, road and vehicle design engineers with in-depth knowledge of standards and regulations, enforcement and driver training and standards experts. This depth and breadth of knowledge will become increasingly important as the UK's vehicle fleet changes with increasing Advanced Driver Assistance Systems (ADAS), electrification, automation and significant connectivity and data. It is worth considering whether it would be appropriate and reasonable for the RCIB to assist the police/other authorities in the determination of the in the facts surrounding an unusual collision, for example involving an Automated Vehicle or next generation of Advanced Driver Assistance System.

This would be where specialist knowledge and skills would be required to determine the sequence of events prior to the collision. Care would be required to ensure the independence of the RCIB investigation. Having a central group of experts (RCIB) with clear terms of reference would ensure the continual improvement of road collision investigations and the associated data in the UK, accelerating the potential learning and subsequent prevention measures to be applied.

The RCIB must be the centre for the interpretation of the data on road collision investigations and research for the UK, placing it in an important position to promote international harmonisation with regard to setting the appropriate standards. Standards setting is vital, at both national and international level. The RCIB must feed into the governance of road safety, and be required to communicate its findings with clear recommendations regarding standards setting, and to do so through formal processes established within governance rules at domestic level.

It is imperative that:

- 1. The RCIB has the powers to collect all the pertinent evidence upon which to base independent conclusions on the causes of road collisions, with a focus on prevention and not blame or liability.*
- 2. The RCIB is independent, but in an established, protocoled, and influential position that enables it to feed into governance and consequential leadership of road safety improvement, through making the recommendations that then lead to changes needed, either in policy, investment, or further research, according to the findings.*

Question 5: Drawing on the provisions of existing accident investigation branches (AIBs) we would expect an RCIB to need the following core powers:

1. Notification of fatal and serious collisions
2. Powers to carry out investigations through access to existing records and primary involvement where necessary
3. Powers on preservation of evidence
4. Powers on co-operation with existing organisations
5. Powers on disclosing evidence
6. Publication of reports and making recommendations

To what extent do you agree or disagree with the proposal that an RCIB should have the investigative powers listed above?

Brake response: Agree strongly

As stated in a previous answer, it is imperative that the RCIB has all the powers to collect all the pertinent evidence upon which to base independent conclusions on the causes of road collisions, with a focus on prevention and not blame or liability.

Question 6: What other investigative powers, if any, do you think an RCIB should have and why?

Brake response: The power to make recommendations within an established governance process that provides it with the authority it needs to influence governance and leadership through evidence that then directs standards setting and other aspects such as investment or further research.

This is different to simply producing reports and making recommendations independent of Government, although RCIB independence is important.

This power is referenced in the Safe Roads for All report submitted to Government summer 2021, which advocated naming the proposed RCIB as the 'Road Collision Investigation and Safety Standards

Agency (RCISSA)' for this reason. Such an agency would also have an overview of investigating Government performance against road collision performance indicators, as well as making independent recommendations within a Governance structure.

Question 7: Given the scale of collisions on the roads, we intend for an RCIB to focus primarily on thematic investigations drawing on evidence across multiple cases, rather than on individual incidents. What investigation criteria should an RCIB give weight to when deciding what to base thematic investigations on? Please rate each criterion on the following five-point scale: 1 – very important; 2 – important; 3 – neither important nor unimportant; 4 – unimportant; 5 very – unimportant.

- Scale – factors impacting a large number of fatal or serious collisions (as opposed to more minor collisions/near misses)
- Risk of harm – collisions impacting those who might sustain the greatest risk of harm including children, the elderly, pedestrians, cyclists and equestrians
- Emerging risks – new technology or behaviour without an established evidence base
- Other, please provide detail

Brake response: Rate all as 1 – very important

Why did you choose to rate the criteria in this way?

Brake response: All of the above will require investigation. The impact, and potential impact, on life is the important thing (scale of fatal or serious crashes, and risk of harm) as well as emerging risks as technologies / behaviours change, including the inter-connection between technologies and behaviours.

The future Chief Road Collision Investigator must develop a prioritisation scheme based on a combination of return on investment for given investigations versus potential learning and outcomes.

Within this question is the proposal for a thematic rather than individual crash approach. This is intelligent and understood. While it is agreed that this should drive the work of the RCIB, the RCIB must retain its responsibility to make informed choices regarding which crashes it investigates and of course have the powers and the necessary resourcing to investigate individual crashes of its choice, for thematic or other emerging, critical reasons.

Are there other criteria you think should be included?

Brake response: Yes.

What other criteria?

Brake response: Collisions where there are significant gaps in our knowledge regarding the causes and prevention strategies. As the RCIB gets underway, it will become clearer what these are.

Question 8: What impact do you think an RCIB would have on victims of road collisions and their families? Please describe in as much detail as possible.

Brake response: If the RCIB is established as an agency that feeds into standards setting (policy and investment decisions) it will potentially have a very positive impact on victims of road collisions and their families, with the caveat that this needs recognising and building into the RCIB administration processes.

As the NGO delivering the National Road Victim Service (NRVS), funded by DfT, and helping up to 1,000 families a year from day one of the crash, Brake can confirm that families affected by bereavement and serious injury in crashes frequently have a need:

1. *to understand what happened in the crash and its causation, in as much detail as possible, whether it involved potential or actual criminality or not. 'Why did it happen and why did my loved one die / suffer horrific injuries?' is one of the most common questions of victims, who have an intense 'need to know' often.*
2. *for the death/s or injury/ies not to be in vain; for lessons to be learned and strong decisions made to prevent future crashes and deaths/injury.*

Victims have variable views on penalty levels for criminal offences proven or unproven in their cases. However, many victims are concerned to learn, as often happens, that in their case a penalty that they deem as unfairly low has been issued to an offender for an offence that has contributed to death or serious injury, or in some cases no criminal charge is possible, or a charge does not result in a conviction.

An RCIB would give victims, regardless of criminal charges brought or not brought, an additional and important focus of attention regarding need 2 listed above, i.e. a focus on causation and in particular governance of road safety from a Safe System perspective by the authorities.

Many victims want to campaign for road safety on a point that they perceive is requiring of policy or investment prioritisation, but often do not know how to do this, nor where to turn for help. With the above in mind, and consideration of a holistic, humanitarian approach to road safety, it is recommended that:

1. *The DfT continues to fund, and expand funding, of the NRVS for a sustainable period of 3 years as per the bid submitted summer 2021 to the DfT, to enable the NRVS, as explained in that bid, to deliver levelled up care, and access to that care, for all victims of bereavement/catastrophic injury, with a referral mechanism from police into the NRVS, and to ensure within NRVS delivery that all victims understand the role of the police, the CJS, and the RCIB through the NRVS information provision; and*
2. *the RCIB should employ a dedicated officer, who receives training from NRVS, to be available to hear the commentary of road victims relating to their cases and respond, seeking to incorporate their voices within their thematic investigations and recommendations, and to inform victims appropriately about the work of the RCIB.*

This would:

- a. *give an appropriate route for victim commentary on causation, alleviating other government agencies, while not preventing victims from talking to their MPs, local authorities, writing to Ministers, etc.*
- b. *strengthen the road victims voice, which is important to the DfT and Government more widely as part of its responsibilities towards victims under the Victims Code, in addition to victims' opportunity to give Victim Statements as part of the CJS process (the NRVS often assists victims to write their statements).*

This additional channel for their voice is particularly important for victim cases where there is no or limited criminal charge brought due to lack of evidence or lack of criminality, or an inquest has not taken place (see below).

It is important in this context to mention the role of coroners, who have a distinct and important role in highlighting causations of wider public concern to government, but are often restricted in that role, in line with criminal process, as inquests are, according to that process, often opened and closed without being heard if there is a criminal court case underway, meaning the role of coroners is often limited to

commentary in cases where criminal process does not occur. This creates inequity, as the role of the coroners is potentially powerful as a voice for change, but is restricted to certain cases. Consequently, again, the creation of a RCIB, that can be communicated with, and that victims can be helped to understand via the NRVS, is an important humanitarian aspect of giving victims a voice.

When interviewing victims as part of an investigation, police and the RCIB should follow strict procedures that account for the emotional and practical needs of victims, and NRVS should be consulted regarding these procedures' development. The establishing of an RCIB should be seen as a further opportunity for improvement of professional and empathetic, trauma-informed liaison with victims.

Question 9: Are there any other comments on the potential creation of an RCIB you wish to make? Please provide detail.

In summary, the RCIB has the potential to save lives through being integrated into governance and leadership of road safety. If it is set up and its recommendations are not utilised in a way that can achieve change, it will fail to have impact.

Secondly, the RCIB has the potential to save lives in a subsidiary way, through helping meet the 'need to know and affect change' of road crash victim families. Road victim families face immense challenges, including devastating psychological impact. Meeting their needs mitigates risk of PTSD, depression, job loss and many other negative outcomes including suicide.

Funding both an effective RCIB and a better-funded NRVS are two complementary and important steps to both prevent crashes and provide the appropriate humanitarian response for victims; the two steps should be undertaken together.

In the submission to the DfT for funding of the NRVS, a benefit to cost ratio was provided, indicating significant financial savings to Government services, particularly police and health. A similar exercise can be undertaken to support funding for RCIB, and this has been done by TRL. TRL has calculated conservative estimates for the casualty benefits that could be expected over a five year period from launching an operational RCIB. There is a time lag between the investigation and analysis of collisions and the subsequent recommendations being implemented. The assumptions regarding annual reductions in KSI are therefore 0% in year 1, 0.5% in year 2, 2% in year 3, 3.5% in year 4 and 5% in year 5. A range of predicted annual KSI casualties was used. The outcome of this exercise predicts, over a five-year period, a reduction of fatalities of between 170 to 189, and serious casualties of between 2,440 to 2,706. The monetary value of the KSI prevention would be between £857 million and £952 million.

Further, as we plan for a trajectory that takes us towards zero fatal and serious road casualties as soon as practicable, a RCIB will be essential to ensure this is an achievable aim.

The consequence of this is that the effectiveness of an RCIB with respect to casualty reduction will improve over the medium term (5- 15 years) and depending on the cost of the countermeasures, it is likely that the benefit to cost ratio will remain highly positive. Assuming casualties are reduced over this period, the base level of casualties on our roads from 2037 will be significantly lower than today and it is more difficult to predict the cost benefits over the longer-term (2037-2050).

It will be important to build on the best in-depth independent road collision investigation experience, for example the Department for Transport funds the UK's Road Accident In-depth Studies (RAIDS) (<https://www.gov.uk/government/publications/road-accident-investigation-road-accident-in-depthstudies/road-accident-in-depth-studies-raids>). This world leading research programme identifies

collision scenarios, including contributory factors relating to road users, the vehicle and road, which lead to collisions of varying severities. Further it identifies how people are injured in road traffic collisions, the injuries they sustain, and how these correlate to vehicle characteristics and highway design features. It establishes the extent to which a range of safety related measures have reduced the risk of injury to road users involved in collisions, and it identifies measures to reduce further the risk of collisions and injuries (in terms of vehicle design and safety, the road environment and traffic management and human factors). RAIDS must be a key part of the data, along with STATS19 (Crash), police forensic reports and other data, that is used by the RCIB to both prioritise collisions to investigate and to help develop the required recommendations and strategic, often system-based interventions, to drive down road casualties.

We welcome the opportunity to comment, and particularly thank the DfT for the question relating to road victim impact, which demonstrates the DfT is recognising the importance of respecting victims and meeting their needs, and gives an opportunity for the DfT to consider, together, the importance and mutual gains of funding both NRVS and RCIB at the same time.

We would also reference the level of funding of an established RCIB. The level of activity the RCIB can undertake, particularly with regard to collision investigations, will depend on its funding level; the important thing at this stage, however, is to get the RCIB set up. Any funding level, equivalent to that, say, of the Rail Accident Investigation Branch (RAIB) (5m a year) should enable the RCIB to commence its thematic approach to collision investigation in partnership with relevant agencies. For comparison purposes, however, it should be noted that the funding level of the RAIB enables 16 RAIB investigations a year, and a further 15 RAIB investigations started (page 32 to 36 of RAIB 20/21 report). Rail and road collision investigations are different but both detailed, and require resource. Clearly, much more funding than 5m a year would enable many more road collision investigations, and the number of road deaths and serious injuries on roads compared with by rail dictate that this is appropriate and that the RCIB is justified in being funded at higher, appropriate levels in light of the Benefit:Cost Ratio savings that can be achieved. However, any level of funding at the same level of the RAIB or above would enable the RCIB to be founded and commence, which urgently needs to happen alongside the requisite funding for road victim care, as has been requested within the NRVS bid to Government this year (also for c.5m a year).

Brake is happy to be contacted by email by DfT in relation to our responses to this consultation.

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