

# **General Rules**

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## **POINTS TO NOTE**

Although these general rules have an overall application, there are exceptions for certain types of crime. These exceptions are stated on the counting rules page for that particular crime type.

For this reason, counting rules for individual crime types should take precedence over the general rules in cases where there is an apparent contradiction between the two.

The term 'crime' in these rules should be taken to mean a crime which is recorded (ie notifiable to the Home Office). It should not be confused with crimes which are 'recordable' on the Police National Computer.

## **A            Whether & When to Record (1 of 6)**

### **INCIDENT REPORTS**

- **ALL REPORTS OF INCIDENTS, WHETHER FROM VICTIMS, WITNESSES OR THIRD PARTIES AND WHETHER CRIME RELATED OR NOT, WILL RESULT IN THE REGISTRATION OF AN INCIDENT REPORT BY THE POLICE.**

The reasons for registering all incidents include the need to ensure forces have all available information in relation to possible crimes in their area and to allow an audit trail to be created, to ensure consistency of crime recording between forces. Where a report is recorded as a crime initially (eg telephone report direct to Crime Management Unit), it is not necessary that an incident report is also created. However, where the report is not recorded as a crime, an auditable incident report should be registered (whether in the force incident system or some other accessible or auditable means).

#### **Crime related incidents**

This term is used to describe a record of an incident where a report of an incident has come to police attention which, on the Balance of Probabilities, would amount to a notifiable crime, but a resultant crime has not been recorded. The specific circumstances where this would happen are:-

- The incident is reported by a party other than the alleged victim (or person reasonably assumed to be acting on behalf of the victim) **and either:**
    - the alleged victim (or person reasonably assumed to be acting on behalf of the victim) declines to confirm the crime **or**
    - the alleged victim (or person reasonably assumed to be acting on behalf of the victim) cannot be traced.
- Or**
- The incident is being dealt with and recorded by another police force

**Or**

The NCRS or a specific rule within HOCR, or appendix thereto directs that a crime should not be recorded (eg DCSF Crime Recording by Police Officers Working in Schools Guidance).

### **WHETHER TO RECORD**

- **AN INCIDENT WILL BE RECORDED AS A CRIME (NOTIFIABLE OFFENCE)**
  1. **FOR OFFENCES AGAINST AN IDENTIFIED VICTIM IF, ON THE BALANCE OF PROBABILITY:**
    - (A) **THE CIRCUMSTANCES AS REPORTED AMOUNT TO A CRIME DEFINED BY LAW (THE POLICE WILL DETERMINE THIS, BASED ON THEIR KNOWLEDGE OF THE LAW AND COUNTING RULES), AND**
    - (B) **THERE IS NO CREDIBLE EVIDENCE TO THE CONTRARY.**
  2. **FOR OFFENCES AGAINST THE STATE THE POINTS TO PROVE TO EVIDENCE THE OFFENCE MUST CLEARLY BE MADE OUT, BEFORE A CRIME IS RECORDED.**

Any reference to a crime elsewhere in Section A ('Whether and When to Record') means a recorded crime or notifiable offence, as defined by the Home Office and listed in the counting rules chapters. Notifiable offences do not cover all criminal offences, as most summary offences are not notifiable.

The police will determine whether the circumstances as reported amount to a crime defined by law, based on their knowledge of the law and the counting rules.

The test to be applied in respect of recording a crime is that of the balance of probabilities ie is the incident more likely than not the result of a criminal act? In most cases, the belief by the victim (or person reasonably assumed to be acting on behalf of the victim) that a crime has occurred is sufficient to justify its recording, although this will not be the case in all circumstances.

## A Whether & When to Record (2 of 6)

### APPLICATION OF THE RULE

**Where apparent criminal activity comes to the attention of the police, and the alleged victim confirms that a crime has taken place but declines to support any police action, a crime should be recorded.**

A victim's refusal to supply details is not reason in itself for failing to record a crime.

Example 1: The police are called to the scene of a crime. The alleged victim is found, confirms that the crime took place (and there is no credible evidence to the contrary), but refuses to supply personal details and does not want the matter taken any further.

*Record a crime.*

- **Where there are grounds to suspect that a victim related crime (ie a crime requiring victim confirmation for it to be complete) may have taken place but no victim (or person reasonably assumed to be acting on behalf of the victim) can immediately be found or identified, the matter should be recorded as a crime related incident until such time as the victim is located or comes forward.**
- **All reports of crimes made where the offender (if age known or otherwise) is under the age of 10 years should be recorded as a crime.**
- **Referrals made by other organisations to the police in cases involving crimes committed against vulnerable persons should be recorded by the police, regardless of any decision to resolve it by the other organisation. Where as a result of Multi-Agency Risk Assessment Conference (MARAC) procedures, police become aware of an allegation of a previously unrecorded notifiable offence they must deal with the recording of such crime in accordance with NCRS. That is applying the third party reporting criteria, or where they are not acting for or on behalf of the victim, seeking victim confirmation. The level of any subsequent investigation remains a matter for the relevant Chief Officer of the force concerned.**
- **The concept of 'No Victim No Crime' as contained within paragraph 3.9 of the NCRS is a guiding principle and should generally be adhered to. However, in *exceptional* cases where there is overwhelming evidence that a serious crime has been committed, a force may decide to record even though the victim has declined to confirm or cannot be found. The reason for non compliance with paragraph 3.9 of the Standard must be contained within the crime record, which in turn must have been subject of Force Crime Registrar (FCR) review.**
- **The auditors will consider each case, but will not as a rule find fault if the reason for non compliance (ie an apparent over-recording of crime) is acceptable, appropriately recorded and there is evidence of FCR review.**

### APPLICATION OF THE RULE

**Apparent or possible criminal activity, such as damage to bus shelters, telephone kiosks, forensic items (blood) etc, which does not in itself amount to evidence of a crime, coming to the attention of the police after the incident either personally or via third parties, would not initially be recorded as a crime but as a crime related incident and enquiries should be carried out to locate the victim.**

Example 1: A report of a crime is received by phone but the caller is not acting on behalf of the victim. Police attend the scene and after further suitable enquiries cannot locate a victim or his or her representative.

*Classify as a crime related incident but do not record a crime.*

## A Whether & When to Record (3 of 6)

- **In the case of a public order incident where on the arrival of the police there is no continuing disorder and no specific intended victim, the incident will not be routinely recorded as a crime. In the case of offences under Section 5 of the Public Order Act 1986 where there is no specific or intended victim, other than the police officer, where an officer warns an offender to stop the unlawful behaviour and as a consequence of the offender heeding the warning, no further action is taken (other than implementing local diversionary initiatives excluding Penalty Notices for Disorder), the incident should not routinely be recorded as a crime but as a crime related incident.**

In public order incidents (see NCRS paragraphs 3.12 and 3.13), reasonable enquiries should be undertaken to identify specific victims and secure any supporting evidence which would enable further police action in terms of arrest or summons. Where enquiries fail to identify any victim, the incident will remain as a crime related incident. Where police arrive at a scene and witness disorder, they will deal with the matter appropriately and where notifiable offences are apparent record a crime in accordance with the Home Office Counting Rules.

### **Allegations of rape which come from victims, third parties or from Sexual Assault Referral Centres (SARCs).**

A report of rape must be recorded as a **crime** in the following instances:

- The victim provides personal details and seeks a police investigation;
- The victim (whether anonymous or not) provides details of the allegation to be passed to the police but decides not to pursue the allegation;
- The victim undergoes a forensic examination with samples submitted to the police for analysis (whether or not personal details are passed to the police).

A report of rape should be recorded as a **crime-related incident** in the following instances:

- The victim does not seek a police investigation but is happy for some depersonalised data to be passed to the police for intelligence purposes;
- The victim wishes to remain anonymous and does not want details of the allegation passed to police (if any information at all received by police);
- The victim undergoes a forensic examination and samples are frozen at the SARC in case the victim decides to pursue the case at a later date (forensic samples are not passed to the police).

### **WHEN TO RECORD**

- **A CRIME SHOULD BE RECORDED AS SOON AS THE REPORTING OFFICER IS SATISFIED THAT IT IS MORE LIKELY THAN NOT THAT A CRIME HAS BEEN COMMITTED.**

The timing should be the earliest that the police force's crime recording system allows. It is a national requirement that an incident should be recorded as a crime within a standard timescale of 3 x 24 hour periods from the time the incident is first logged. A maximum of seven days is allowed (to cater for situations outside of the control of the police such as where victims are unavailable), providing the explanation for the delay is clear on the log.

Recording should not be delayed in order to wait for further details of the case, including the likelihood of a detection.

- **THE TIMING OF A RECORDED CRIME, FOR THE HOME OFFICE STATISTICAL RETURNS, SHOULD RELATE TO THE DATE IT IS RECORDED.**

So, for example, a crime that was committed in September, but reported to the police and recorded as a crime in October, should be included in the recorded crime total for October.

## A Whether & When to Record (4 of 6)

- **ONCE RECORDED, A CRIME SHOULD REMAIN RECORDED UNLESS THERE IS ADDITIONAL VERIFIABLE INFORMATION TO THE CONTRARY.**

Additional verifiable information to the contrary amounts to the circumstances listed in Section C ('no crimes') in which case the crime should be 'no crimed'.

- **FOR CRIME COMMITTED OUTSIDE ENGLAND AND WALES REFER TO SECTION G LOCATION OF CRIMES (2 OF 4).**

### COVERT OPERATIONS

The only exception to this requirement for recording crime is for undercover operations.

Where the Force Crime Registrar is satisfied that compliance is not possible due to the complexity, or possible compromise, of the investigation they (the FCR) should ensure compliance within the above timescales, immediately following the conclusion of the investigation. Furthermore, where an exception has been granted the FCR, in liaison with the authorising officer, must ensure that all crimes have been recorded applying all the general principals.

#### **APPLICATION OF THE RULE**

Example 1: During a police operation an offender supplies cannabis to an undercover police officer on three occasions.

*Three crimes of trafficking (class 92/46).*

Example 2: During a police operation an offender supplies heroin and cannabis to an undercover police officer on three occasions.

*Three crimes of trafficking (class 92/31). Heroin is the principal crime.*

Example 3: Police install covert surveillance equipment in a warehouse where employees are suspected of thefts. After a week they view the tape recording and observe John committing thefts on two days and Paul committing a theft on one day.

*Two crimes of theft employee should be recorded (class 41) one for each offender. All offences were reported to police at the same time.*

Example 4: Police install covert surveillance equipment in a warehouse where employees are suspected of thefts. Each night they view the tape recording and observe John committing thefts on two separate days and Paul committing a theft on another day

*Three crimes of theft employee should be recorded (class 41). Two for John and one for Paul. Offences were recorded by police daily.*

Example 5: During an undercover operation, police purchase (what the offender admits to be) stolen goods in the following circumstances:

- (i) Brian and David sell stolen goods on four separate occasions admitting that the property was stolen by them by means of domestic burglary. Following arrest at the end of the operation they are charged with four counts of burglary for offences already recorded by Police.

*The four recorded burglary offences can be shown as detected under Detection Method A. No additional offences of handling stolen goods should be recorded.*

- (ii) Fiona sells stolen goods to police on six separate occasions.

*Six crimes of handling stolen goods (class 54).*

## A Whether & When to Record (5 of 6)

### **APPLICATION OF THE RULE (CONTINUED)**

- (iii) Twelve different offenders sell stolen goods to police during a covert operation. Only six offenders are arrested and charged at the conclusion of the operation.

*The FCR must ensure that all offences are recorded under (class 54). That is all the separate offences for each of the twelve identified suspects.*

### **SERIOUS ORGANISED CRIME AGENCY (SOCA)**

Where the SOCA is responsible for an investigation the following rules will apply:

- If SOCA is investigating a previously recorded notifiable offence, HOCR should be applied in the same way as for an offence being dealt with by the force.

For all other SOCA investigations the general HOCR should be applied in all cases, however if the senior investigator believes that recording the allegation on the relevant force crime system:

- would not be in the public interest **or**
- doing so may compromise the investigation **or**
- could risk the safety of Agency operatives or other parties to the investigation

The recording may be delayed until the conclusion of the investigation, or at a point in the investigation when the criteria for not recording, as previously described, cease to exist; at which time:

- The SOCA must ensure that details of the investigation are made available to the relevant FCR so that a crime recording decision can be made; and all relevant crimes are recorded in accordance with the general principles.

### **Detections**

The case papers relevant to SOCA investigation will normally be retained by the Agency. It is therefore essential that force systems capture sufficient details to provide an audit trail which enables future validation of both the recorded crime and any linked detection.

### **British Telecom Recording Practice**

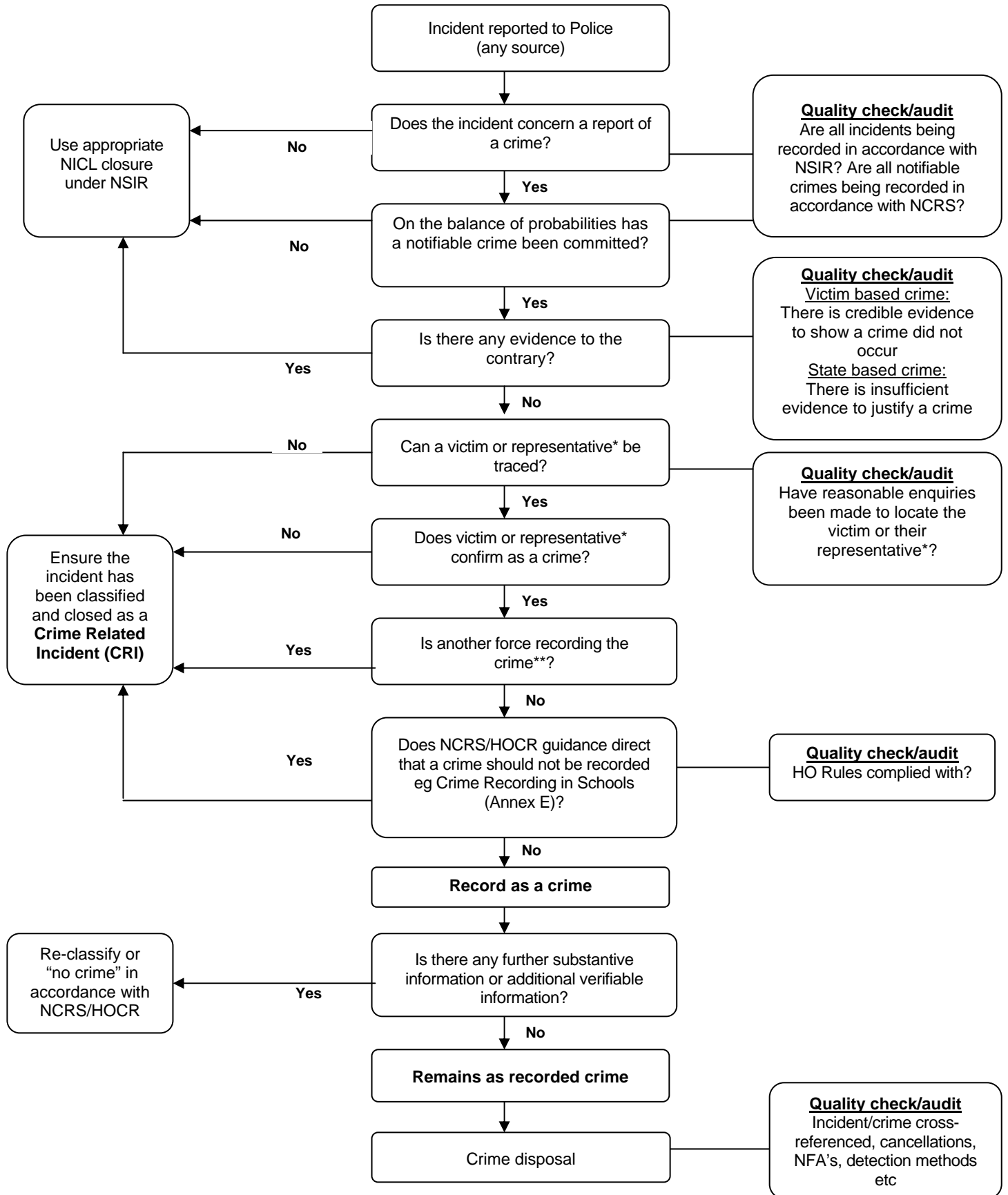
Where BT contact Police to inform them an alarm on a payphone has just gone off and Police respond to find damage to a phone box which on the balance of probability indicates an attack, this should be the subject of a crime report.

Where BT contact Police to inform them an alarm on a payphone has just gone off and Police respond to find no damage and no indication of an attack, this should be subject of a Crime Related Incident. When a BT engineer subsequently attends the phone box and confirms an attack has taken place and this additional information is relayed to Police, this should be subject to a crime report.

Where BT contact Police with a list of offences that have previously been committed against phone boxes in their police force area, this should be treated as intelligence information and subject to the minimum of a Crime Related Incident Reference number.

# A Whether & When to Record (6 of 6)

All reports of incidents, whether from victims, witnesses or third parties and whether crime related or not will result in the registration of an incident report by the police.



\* Paragraph 3.11 of the NCRS provides guidance on recording crimes in *exceptional* cases even though a victim has declined to confirm or cannot be found (NB: Representative means, "A person reasonably assumed to be acting on behalf of the victim")

\*\* Disputes over location should be resolved in accordance with the protocol (HOCR, General Rules, Annex C)

## B Classification & Re-classification (1 of 1)

### WHEN TO CLASSIFY

- **CLASSIFICATION OF A RECORDED CRIME SHOULD BE MADE AT THE TIME OF RECORDING.**

This is the point at which the crime is confirmed ie a nominated officer (and ultimately the FCR) has checked the crime record to satisfy himself/herself that the procedure has been undertaken correctly.

### HOW TO CLASSIFY: RECORD ACCORDING TO THE COUNTING RULES

- **THE CRIME TYPE CHOSEN SHOULD BE DETERMINED BY APPLYING THE COUNTING RULES, GIVEN THE INFORMATION AVAILABLE AT THE TIME OF RECORDING.**

This means that there will be occasions where the crime type recorded does not equate with the crime type with which a suspect is actually charged (or dealt with by other method of detection).

Where there is doubt about which crime type to choose, the test to apply is that of balance of probabilities (as with the decision to record an incident as a crime – see Section A).

For offences where there is no specific guidance contained within the rules then it is appropriate that the crime type chosen should be the one with which a suspect would be charged, given the information available at the time of recording.

### RE-CLASSIFICATION

- **IF FURTHER SUBSTANTIVE INFORMATION COMES TO LIGHT AFTER A CRIME IS RECORDED, IT MAY BE RE-CLASSIFIED BY THE FCR IF IT IS CONSIDERED APPROPRIATE TO DO SO.**

When considering re-classification the police will apply their knowledge of the law and Home Office Counting Rules to the information or evidence obtained since the original classification was made. If having regard to the new information or evidence the original classification is no longer deemed to be accurate the offence will be re-classified or dealt with under Rule C (B) if appropriate. Justification for the re-classification should be recorded within the crime record in an auditable form.

This rule includes re-classifications to all notifiable offences, including homicide.

- **IF THE ORIGINAL CLASSIFICATION IS DISCOVERED TO BE IN ERROR, IT MAY BE RE-CLASSIFIED BY THE FCR. The FCR should aim to make all necessary re-classifications within one month.**

#### **APPLICATION OF THE RULE**

**A crime is initially recorded and classified as crime type A. The FCR considers crime type B to be more appropriate.**

Example: (i) The FCR is validating the crime before confirmation.  
*The crime should be classified as crime type B.*

Example: (ii) The crime has already been confirmed, but new information suggesting crime type B has emerged later.  
*The FCR may re-classify to crime type B.*

Example: (iii) As (ii), but crime type B is not notifiable.  
*The FCR should no-crime offence A.*

Example: (iv) A crime (type A) is entered in error as crime type B.  
*The FCR may re-classify to crime type A.*



## C No Crimes (1 of 2)

- A CRIME ONCE RECORDED SHOULD BE CLASSIFIED AS A 'NO CRIME' IF ONE OF THE FOLLOWING CRITERIA ARE SATISFIED:
  - (A) THE CRIME WAS COMMITTED OUTSIDE THE JURISDICTION OF THE POLICE FORCE IN WHICH IT WAS RECORDED. (Crimes committed within the jurisdiction of another police force area should be referred to the respective force - see also Section G.)
  - (B) WHERE FOLLOWING THE REPORT OF AN INCIDENT WHICH HAS SUBSEQUENTLY BEEN RECORDED AS A CRIME, ADDITIONAL VERIFIABLE INFORMATION IS AVAILABLE WHICH DETERMINES THAT NO NOTIFIABLE CRIME HAS BEEN COMMITTED.
  - (C) IF THE CRIME, AS ALLEGED, CONSTITUTES PART OF A CRIME ALREADY RECORDED.
  - (D) IF THE REPORTED INCIDENT WAS RECORDED AS A CRIME IN ERROR.
  - (E) WHERE THE RECORDED CRIME IS UNDER CLASS 53C OR 53D ONLY AND THERE IS CLEAR AUDITABLE INFORMATION THAT SHOWS THAT THE OFFENDER HAS BEEN DEALT WITH OUTSIDE THIS JURISDICTION FOR THE RECORDED CRIME. ONLY A DDM CAN AUTHORISE A NO CRIME IN THESE CIRCUMSTANCES.

Dealt with outside this jurisdiction means:

- Convicted by a criminal court (or equivalent) for that recorded Fraud offence abroad or
- The material facts of the recorded crime have been used to enable a conviction for an all embracing Fraud charge within judicial proceedings by a criminal court abroad.

**NO CRIMES RELATE TO CRIMES ALREADY RECORDED, AND ARE THEREFORE DISTINCT FROM INCIDENT REPORTS THAT ARE NOT CRIMED.**

THE NO CRIME RULE CAN BE APPLIED TO CRIMES RECORDED AT ANY TIME DURING THE FINANCIAL YEAR AND MAY INCLUDE OFFENCES RECORDED IN PREVIOUS FINANCIAL YEARS.

WHERE A NO CRIME RELATES TO A PREVIOUS FINANCIAL YEAR'S RECORDED CRIME, FORCES SHOULD RESUBMIT AN ADJUSTED END OF YEAR CRIMSEC3 FOR THAT FINANCIAL YEAR, TO TAKE ACCOUNT OF THE 'NO CRIME'. THE CURRENT YEAR'S CRIME FIGURES MUST NOT BE UNDERSTATED BY INCLUDING 'NO CRIMES' FOR PREVIOUS YEAR(S).

### APPLICATION OF THE RULE

#### Examples of crime which should be NO CRIMED

Example 1: A man reports that he has been blackmailed. The crime is recorded and investigated but the complaint is shown to be false. The complainant is prosecuted for wasting police time.

*No crime the blackmail.*

Example 2: A burglary is reported and recorded but the subsequent investigation reveals that the report was false and a fraudulent insurance claim has been made.

*No crime the burglary and record one crime of fraud.*

Example 3: A theft in a dwelling is discovered to have been recorded subsequent to the burglary of which it forms part.

*No crime the theft in a dwelling.*

## C No Crimes (2 of 2)

### APPLICATION OF THE RULE (CONTINUED)

Example 4: An ABH is recorded but is discovered to have occurred during the course of a robbery which is already recorded.

*No crime the ABH.*

Example 5: An offender burgles a dwelling, rapes the occupant and steals her car from the driveway. All are reported together and under the Principal Crime Rule (see Section F), the rape is recorded. One of the other constituent crimes of the incident is subsequently recorded.

*No crime the subsequent record.*

Example 6: An abandoned vehicle is found burnt out. No report of the vehicle being stolen has been received and extensive enquiries failed to establish an owner for the vehicle. Police initially recorded an offence of arson.

*In these circumstances, no notifiable crime has been committed in law. It should be treated as having been crimed in error and the offence should be no crimed.*

Example 7: Following the submission of case papers in relation to an ABH the CPS endorse the MG3 with 'no evidence of an offence having been committed'.

*No Crime the ABH if the police decide the no crime criteria is met under these rules.*

### Example of a crime which should remain recorded

Example 1: A rape is reported to and recorded by the police. Following investigation, the police are unclear whether a crime actually took place.

*The rape remains recorded.*

## D One Crime per Victim (1 of 1)

- **THE GENERAL RULE OF ONE CRIME PER VICTIM APPLIES TO CRIMES WITH SPECIFIC, INTENDED OR IDENTIFIABLE VICTIMS.**

The rule for each type of crime (including any exception to the general rules stated here) can be found on the counting rule page for that crime.

For crimes against the person, the victim is the person assaulted or threatened.

Where there are grounds to suspect that a victim related crime has taken place the victim or a person acting on behalf of the victim must confirm the circumstances relating to that crime for a crime to be recorded. It is not necessary for the victim to provide personal details or wish police to pursue the matter, only for them to confirm the circumstances surrounding the crime.

For crimes against property, the victim is generally the owner of the property targeted. In vehicle crime, for example, the crimes are counted in terms of numbers of registered owners' vehicles, which may not exactly coincide with numbers of vehicles (as more than one vehicle may be owned by one person or company). The victim of a burglary in a dwelling is the household targeted, rather than individual owners of property.

### APPLICATION OF THE RULE

Example 1: Two relatives of the householder who are staying overnight have property stolen when the house is burgled.

*One crime of burglary in a dwelling (class 28A).*

- **IF THERE IS NO SPECIFIC, INTENDED VICTIM OF A CRIME, OR IF THE CRIME IS 'VICTIMLESS', THEN ONE CRIME SHOULD BE COUNTED FOR EACH OFFENDER OR GROUP OF OFFENDERS.**

This rule is clarified when applied to the relevant crime type.

In general, for offenders to constitute a group, three characteristics need to be established.

- (i) The offenders need to have a common purpose.
- (ii) There should be an element of conspiracy.
- (iii) They need to have more than mere common knowledge of the victim (in crimes where there is a victim).

- **IF A PERSON IS A VICTIM OF MORE THAN ONE CRIME, COUNT THE OFFENCES SEPARATELY IF THERE IS EVIDENCE THAT THE OFFENDER OR OFFENDERS HAVE ACTED INDEPENDENTLY.**

This rule can be viewed alternatively by considering the counting of crimes in terms of 'offender or group of offender/victim relationships'. In most cases any repeat crimes are likely to be carried out either by the original offender or by someone in league with the original offenders. However, if a completely independent person commits a second crime, then this constitutes a second offender/victim relationship and so should be counted separately.

## E The Finished Incident Rule (1 of 1)

- **AN INCIDENT COMPRISING A SEQUENCE OF CRIMES BETWEEN THE SAME OFFENDER (OR GROUP OF OFFENDERS) AND THE SAME VICTIM SHOULD BE COUNTED AS ONE CRIME IF REPORTED TO THE POLICE ALL AT ONCE.**

The incident can comprise crimes of different types. Classification then depends on the Principal Crime Rule (see Section F).

- **AN INCIDENT SHOULD BE REGARDED AS FINISHED WHEN IT COMES TO THE NOTICE OF THE POLICE.**

If the offending resumes after it comes to the police's notice, then further crimes are recorded whenever they come to the police's notice.

### **APPLICATION OF THE RULE**

#### **Examples of the Finished Incident Rule**

Example 1: 'A' threatens 'B' on three occasions.

- (i) 'B' reports the threats to the police on each occasion a threat is made.

*Three crimes.*

- (ii) 'B' reports the three occurrences at the same time.

*One crime.*

Example 2: During a police operation an offender is observed to commit a number of crimes against the same victim.

*Each incident to be considered finished as it comes to the notice of the police. Separate crimes to be recorded.*

## F The Principal Crime Rule (1 of 1)

- **IF THE SEQUENCE OF CRIMES IN AN INCIDENT, OR A COMPLEX CRIME, CONTAINS MORE THAN ONE TYPE OF CRIME, THEN COUNT THE MOST SERIOUS CRIME. (As it states in Section E, these incidents must involve the same offender and victim.)**

In determining the most serious crime, the most serious violent crime (including rape) should generally take precedence over the most serious property crime. If it is not possible to do this, regard should be taken of the maximum sentence or, where equal sentences are prescribed, the maximum sentence likely to be imposed on an offender.

The end pages of each crime group chapter contain look-up tables of maximum sentences and Annex F of the General Rules contains a ranking chart to clarify precedence, particularly for crime types with the same maximum sentence.

This Principal Crime Rule would not normally be applied to victimless crimes. If one considers the state or Regina as the victim in these crimes, then it is distinct from a specific victim. It follows that the victimless crime is counted in addition to the one with a victim. If there are two or more victimless crimes, then they should be counted separately, providing that they are distinct in nature (eg different crime classification).

It is difficult to provide a look-up table to cover all crimes. Violent crimes usually take precedence but with theft, when all else has been considered, the value becomes important.

### APPLICATION OF THE RULE

#### Examples of the Principal Crime Rule

Example 1: A house is entered, the female occupant is raped and her car is stolen from the driveway. All reported together.

*One crime of rape (class 19).*

Example 2: A householder is repeatedly victimised by a gang. Greenhouse glass is smashed on one occasion; garden furniture stolen on another occasion and the householder is assaulted. The incidents are reported to the police all at the same time.

*One crime of assault unless this is clearly not the most serious crime committed on the victim in which case record one criminal damage or one theft depending on the principal crime look up table (Annex F).*

Example 3: A person stopped for dangerous driving is found to have a false tax disc.

*One crime of dangerous driving (class 802) and one crime of fraud (class 814).*

## G Location of Crimes (1 of 4)

- **THE PRINCIPLES SET OUT IN THIS SECTION WILL PROVIDE THE BASIS ON WHICH THE CRIME RECORDING LOCATION IS DETERMINED.**

If there are practical difficulties in agreeing which force record, then some negotiation can be made, particularly on the basis of who is taking the lead in investigating it.

### OFFENDER LOCATION

- **THE LOCATION OF THE OFFENDER(S) AT THE TIME THEY COMMITTED THE OFFENCE WILL DETERMINE THE CRIME RECORDING LOCATION.**

### Clarification

- **At the time the report is received by the police the location of the offender(s) at the time of the offence is clearly evidenced:**
  - **The crime will be recorded as having occurred at that location.**

#### **APPLICATION OF THE RULE**

##### Examples of offender location

Example 1: The offender is seen by several witnesses to break the window of a car which is parked in the High Street.

*The crime will be recorded by the Police Force Area (PFA) covering the High Street.*

- **At the time the report is received by the Police the location of the offender(s) at the time of the offence is not clear but can be determined on the balance of probability:**
  - **The crime will be recorded as having occurred at that location.**

#### **APPLICATION OF THE RULE**

##### Examples of offender location determined on the balance of probabilities

Example 1: Several residents of PFA 'A' report that credit cards sent to their homes by post have not arrived. Initial enquires reveal that all of the missing items of mail involved several different delivery rounds in PFA 'A' but all had been processed via the same Sorting Office in PFA 'B'.

*PFA 'B' should record the crime as the balance of probabilities would indicate that the thefts are occurring in the Sorting Office.*

Example 2: An offender is arrested in (PFA) 'A' and taken to a custody centre in PFA 'B'. When searched in the custody centre the detainee is found to be in possession of a quantity of controlled drugs. There is no evidence to suggest that the drugs came into the offender's possession since they were detained.

*PFA 'A' should record the appropriate crime of unlawful possession of controlled drugs at the location of arrest. The balance of probabilities would indicate that the offender was in possession of the drugs at that location when arrested.*

## G Location of Crimes (2 of 4)

### OFFENDER LOCATION CANNOT BE DETERMINED OR IS DETERMINED TO BE OUTSIDE OF ENGLAND AND WALES.

- A CRIME COMMITTED OUTSIDE ENGLAND AND WALES SHOULD ONLY BE RECORDED IF IT INVOLVES AN INVESTIGATION BY THE FORCE TO WHICH IT IS REPORTED. (This does not include homicide, which is already covered by law.)

#### APPLICATION OF THE RULE

##### Example of offender location cannot be determined

Example 1: The victim who lives in PFA 'A' whilst at their place of work in PFA 'B' receive a number of telephone calls, which amount to harassment, from the same offender who is using a mobile telephone. The location of the offender at the time of the calls cannot be determined.

*PFA 'B' should record the appropriate crime of unlawful harassment based on the location of the victim at the time of receipt.*

Example 2: The victim who lives in PFA 'A' whilst at their home makes a debit card payment via the internet in response to a charity appeal which is later established as bogus and part of a criminal deception. The victim reports the crime to PFA 'A'. The location of the offender(s) cannot be determined but is believed to be in Europe.

*PFA 'A' should record the appropriate crime on the basis of the victim's location at the time they were deceived.*

##### Example of location being determined to be outside of England and Wales

Example 1: The victim who lives in PFA 'A' whilst on holiday in Spain is victim to a robbery during which their mobile phone is stolen. On returning home from holiday the offence is reported to PFA 'A'.

*PFA 'A' should record an incident and may assist the victim in relation to reporting the crime to the Spanish authorities if this has not already been done. There is no requirement to record the crime as both victim and offender were outside of England & Wales when the offence was committed.*

### LOCATION OF VICTIM AND OFFENDER CANNOT BE DETERMINED

- If at the time of reporting the location of the offender(s) and victim cannot be determined then the crime recording location will be:
  - For Personal Crime where the victim is normally resident
  - For a Body Corporate then relevant place of business for the crime in question

#### APPLICATION OF THE RULE

##### Example of victim and offender location cannot be determined

Example 1: A blackmail demand is received by letter (e-mail, fax etc) at a store in High Street PFA 'A' Area 'A'. The store is part of a national chain with its registered office in PFA 'B' and a regional office in PFA 'A' Area 'B'. It cannot be determined from where the letter was sent.

*PFA 'A' Area 'A' should record the appropriate crime regardless of the nature of the menaces.*

## G Location of Crimes (3 of 4)

### VICTIM

For crime recording purposes a victim is defined as the subject against whom the crime was committed.

- **For property crime** this will be the person who had custody/control or proprietary rights in the property at the time the crime was committed.
- **For offences against the person** the specific intended victim.

### CRIME LOCATION DETERMINED BY INVESTIGATION

If during the course of any subsequent investigation the location of the offender(s) at the time of the crime is determined as being at a different location to that recorded consideration should be given to transferring the crime to the police force area covering the identified location.

### CRIMES IN MORE THAN ONE FORCE

- **WHERE A CRIME AFFECTS THE DISTRICTS OF MORE THAN ONE POLICE FORCE, ONE CRIME SHOULD BE RECORDED BY THE FORCE WHO FIRST BECAME AWARE OF THE OFFENCE.**

If there are any difficulties in determining the location of such crimes (eg crimes committed on a train, or by mail), then again some negotiation can be made on the basis of the force or forces investigating the respective crimes

- **WHERE SEPARATE CRIMES HAVE BEEN COMMITTED IN DIFFERENT POLICE FORCE AREAS, THEY SHOULD BE RECORDED BY THE RESPECTIVE POLICE FORCES.**

#### **APPLICATION OF THE RULE**

##### **Examples of Crimes in More Than One Force**

Example 1: Goods are discovered to have been stolen from a lorry on arrival in force area 'B' having travelled from force area 'A'. Force 'B' are investigating.

*Force B to record.*

Example 2: As above, but new evidence suggests that the theft took place in force 'A'. Force 'A' are taking over the investigation.

*Force 'B' to no crime. Force 'A' to record.*

Example 3: A man is arrested for rape and admits raping three other women in different parts of the country – those crimes not previously reported.

*Each force to record the rapes committed in their area.*

Example 4: A riot occurring on or over the border of two police force areas.

*One crime recorded by the force in which it first comes to notice (probably where it started).*

- **WHEREVER APPROPRIATE THE ABOVE RULES SHOULD APPLY TO CRIMES IN MORE THAN ONE BASIC COMMAND UNIT (BCU) WITHIN A FORCE AREA.**



## G Location of Crimes (4 of 4)

### APPLICATION OF THE RULE

#### Examples of Crimes in More Than One BCU

Example 1: A riot occurring on or over the boundary of two BCUs within the same force.

*One crime recorded in the BCU in which it first comes to notice (probably where it started).*

Example 2: A gang robs two branches of the same bank, located in different BCUs within the same force.

*Two crimes of robbery: one in each of the two BCUs.*

- **CRIMES COMMITTED IN LOCATIONS UNDER THE JURISDICTION OF THE BRITISH TRANSPORT POLICE (BTP), THE MINISTRY OF DEFENCE POLICE (MOD) AND THE CIVIL NUCLEAR CONSTABULARY (CNC) SHOULD BE RECORDED BY THOSE FORCES AND NOT BY THE HOME OFFICE FORCE IN WHOSE AREA THE CRIME WAS COMMITTED.**

The locations under BTP jurisdiction are as described in Home Office circular 25/2002: 'A Protocol between British Transport Police and Home Office Police Forces'. Home Office circulars 23/2002 and 24/2002 refer to protocols between Home Office forces and the MOD and UKAEAC.

- **Crimes that cross the border between these forces and HO force jurisdiction should be treated as 'crimes in more than one force' under the rules above.**

**SEE ANNEX C FOR NCRSG PROTOCOL FOR MANAGING REPORTS OF CRIME OCCURRING IN OTHER POLICE FORCE AREAS.**

# H Detections (1 of 13)

## BASIC PRINCIPLES

The basic principles apply to **ALL** Detection Types

**A CRIME IS DEEMED TO BE DETECTED (IE CLEARED UP) WHEN ALL OF CONDITIONS 1 TO 3 LISTED BELOW ARE MET AND THE EVIDENTIAL STANDARD FOR EACH DETECTION TYPE IS MET.**

- (1) A CRIME (IE NOTIFIABLE OFFENCE) HAS BEEN COMMITTED AND RECORDED (SEE SECTION A).**
- (2) A SUSPECT HAS BEEN IDENTIFIED AND HAS BEEN MADE AWARE THAT THEY WILL BE RECORDED AS BEING RESPONSIBLE FOR COMMITTING THAT CRIME AND WHAT THE FULL IMPLICATIONS OF THIS ARE.**

### Clarification

The suspect or appropriate person, must be made aware in person (Unless D1 applies) of all Legal implications that being held responsible for the crime means.

- That a crime has been recorded and they will be held as responsible for it
- That such material is available for disclosure and information sharing purposes where appropriate.

- (3) ONE OF THE METHODS OF DETECTION (A-F) LISTED ON THE FOLLOWING PAGES APPLIES.**

**NOTE: ONCE A DETECTION HAS BEEN CLAIMED, ANY IDENTIFIABLE VICTIM MUST BE INFORMED THAT THE CRIME HAS BEEN 'DETECTED' OR, IN THE CASE OF A CHILD, THE PARENT OR GUARDIAN MUST BE INFORMED.**

### Clarification

- Ideally, the victim should be informed in person, but a letter will suffice. The process should be auditable.
- In cases where there is no victim, eg possession of drugs, the detection still counts.
- In cases where it is not possible to establish who the victim is the crime cannot be recorded or detected.
- In exceptional cases, on the authority of the FCR, where the victim is permanently ill or unable to be informed the detection remains valid. Efforts should be made to inform relatives or other persons reasonably acting in the interests of the victim.

## **NOTE**

**The Director's Guidance on Charging issued under s37A of the Police and Criminal Evidence Act 1984 (Third Edition: February 2007) must be applied to all cases.**

**All Indictable only offences which meet the threshold test must be referred to the CPS even where the police do not wish to prosecute.**

The Director's Guidance on Charging can be found at  
[www.cps.gov.uk/publications/directors\\_guidance/dpp\\_guidance.html](http://www.cps.gov.uk/publications/directors_guidance/dpp_guidance.html)

## H Detections (2 of 13)

### METHODS OF DETECTION

- **ONCE THE OVERALL PRINCIPLES HAVE BEEN SATISFIED, THE CRIME CAN ONLY BE CLASSIFIED AS DETECTED FOR HOME OFFICE PURPOSES USING ONE OF THE FOLLOWING SIX METHODS A-F:**

#### Methods of Detection

- (A) **A PERSON HAS BEEN CHARGED OR SUMMONSED FOR THE CRIME (irrespective of any subsequent acquittal at Court).**

### EVIDENCE

**THERE MUST BE SUFFICIENT SUSTAINABLE EVIDENCE TO PASS THE CROWN PROSECUTION SERVICE (CPS) EVIDENTIAL TEST FOR THAT CRIME IN RELATION TO THAT SUSPECT, OR: WHERE THE THRESHOLD TEST HAS BEEN APPLIED TO A CHARGE BY THE CPS, IN A CASE WHERE BAIL AFTER CHARGE IS NOT APPROPRIATE, AND THE EVIDENCE TO APPLY THE FULL CODE TEST IS NOT YET AVAILABLE.**

#### Clarification

The evidence supporting the case must be sufficient to pass the Crown Prosecution Service (CPS) evidential test ie:

- There is sufficient evidence to provide a 'realistic prospect of conviction' against a defendant on the charge. A realistic prospect of conviction is an objective test. It means that a jury or bench of magistrates, properly directed in accordance with the law, is more likely than not to convict the defendant of the charge alleged.
- The evidential test should be applied at the time the detection is claimed. If the victim or an essential witness subsequently withdraws his/ her evidence, the detection should stand.
- If the CPS, when presented with the case file, discontinues the case on the grounds of insufficient evidence, a Designated Decision Maker (DDM – see role description, Rule D on page 6 of 13) should review the reasons for the charge.
  - The DDM should not have been in any way involved in the original decision.
  - If the DDM agrees that there was not sufficient evidence to pass the CPS evidential test then the detection must be cancelled.
  - If the DDM stands by the original decision, this should be recorded together with the grounds for the decision in auditable form, and the detection can still be counted as charge/summons.
- If the case is discontinued at a later stage, ie after the initial CPS evidential test has been passed, then the detection should not be cancelled unless the charge was preferred by the CPS using the threshold test.
- Where the charge was preferred by the CPS using the threshold test and the case is discontinued because the full evidential test has not been met the detection must be cancelled.
- In the case of a summons or postal requisition, a detection can be counted once the issue of the summons has been authorised or the postal requisition has been authorised and issued.
- Where evidence relating to a previously recorded crime forms the basis of an application for an Anti-Social Behaviour Order or Non Molestation Order (as stand alone cases in the civil court) or a breach of such an order, a detection may be claimed under this rule for this specific crime, provided there is sufficient evidence to charge for that specific crime and all the principles of detection are met.
- Where evidence relating to the Breach of an Anti-social Behaviour or Non-Molestation Order comes to police attention, formal action is taken, by arrest or report for summons and following CPS consultation, a decision is made to proceed via the civil court in preference to the Magistrate's Court, then provided there is sufficient evidence to charge the Breach and all the principles of detection are met, a crime can be submitted and detected, showing the disposal as 'charge'.

# H Detections (3 of 13)

## Methods of Detection

**(B) THE OFFENDER HAS BEEN CAUTIONED BY THE POLICE (or given a reprimand or warning, under the Crime and Disorder Act 1998). The relevant guidance under methods B1, B2 or B3 shown below must be followed; otherwise the detection can not be claimed.**

**B1. Simple cautions (Home Office Circular 16/2008)**

**B3. Reprimand/ Warning (Home Office Circular 14/2006)**

## EVIDENCE

**THE SUSPECT MUST HAVE MADE A CLEAR AND RELIABLE ADMISSION OF THE OFFENCE AND THERE MUST BE A REALISTIC PROSPECT OF CONVICTION IF THE OFFENDER WERE TO BE PROSECUTED IN LINE WITH “THE FULL CODE TEST” SET OUT IN THE CODE FOR CROWN PROSECUTORS.**

### Clarification

- There has to be a realistic prospect of conviction. (A clear, reliable admission of the offence, corroborated by some other material and significant evidential fact will be sufficient evidence to provide a realistic prospect of conviction.)
- Informal warnings should not be counted as detections by this method. Nor should any other form of disposal not explicitly listed above. For reference purposes the different caution methods are categorised as above (although the Home Office will not require these to be identified on returns from forces):
- An admission which may be qualified – where, for example, an offender commits an offence while under the influence of alcohol and cannot remember the full circumstances, but evidence of involvement is agreed either through supporting witness evidence or other evidence (such as CCTV) – may be considered a full and frank admission if all evidence is accepted by the offender.

**B2. Conditional Cautions (Section 22-27 Criminal Justice Act 2003)**

## EVIDENCE

**THERE MUST BE SUFFICIENT EVIDENCE TO CHARGE THE OFFENDER WITH THE OFFENCE IN ACCORDANCE WITH THE CODE FOR CROWN PROSECUTORS AND THE CONDITIONAL CAUTION MUST COMPLY WITH THE DIRECTOR’S GUIDANCE (sixth edition 2010 – ADULTS AND 1<sup>st</sup> January 2010 – YOUTHS)**

### Clarification

- A PACE compliant interview is not an explicit requirement before a conditional caution can be administered; the requirement is that there is sufficient evidence to charge (with or without an interview or admission) and that the offender admits the offence to the relevant person before the caution is administered.
- In the case of youths (age 16 or 17) the offender must not have been previously convicted of an offence.

# H Detections (4 of 13)

## Methods of Detection

- (C) **THE OFFENDER ADMITS THE CRIME BY WAY OF A PACE COMPLIANT INTERVIEW AND ASKS FOR IT TO BE TAKEN INTO CONSIDERATION BY THE COURT ON FORM MG18.**

## EVIDENCE

**THERE MUST BE A PACE COMPLIANT INTERVIEW WHERE THE SUSPECT HAS MADE A CLEAR AND RELIABLE ADMISSION OF THE OFFENCE AND WHICH IS CORROBORATED WITH ADDITIONAL VERIFIABLE AUDITABLE INFORMATION CONNECTING THE SUSPECT TO THE CRIME.**

## Clarification

- The offences taken into consideration **must** be similar too, but not more serious than the offence charged.
- The offender must be appearing before a court to have the matters taken into consideration.
- Crimes can be counted as detections once there is a PACE compliant admission, the TIC acceptance form (MG18) has been signed and the DDM is satisfied that there is additional information connecting the person to the crime. For TIC(s) in other Police Force Areas it is acceptable for the originating Force's DDM to state that this requirement has been met. It is not necessary for the receiving Force's DDM to perform the same task.
- In exceptional circumstances crimes can also be counted as detections once there is a PACE compliant admission and the offender, having previously failed or declined to sign the TIC acceptance form (MG18), whilst at court during sentencing asks for the offence(s) to be taken into consideration by the court, and the DDM is satisfied that there is additional information connecting the person to the crime. In these circumstances it is preferable for the TIC acceptance form to be signed during the proceedings; where for any reason this doesn't happen the force must prove the offence(s) were taken into consideration by the court, before claiming the detection.
- If the offender is found to be not guilty, provided that the above has been complied with the detection can remain.
- Providing the victim confirms that the offence occurred, crimes that have not previously been recorded but which are taken into consideration, should be counted and returned to the Home Office separately from other TICs. If the victim cannot be traced or does not confirm the crime then it should neither be recorded nor detected.

## H Detections (5 of 13)

### APPLICATION OF THE RULE

Example 1: An offender awaiting sentence on a burglary charge admits, during a PACE compliant interview, committing five other reported burglaries. On four of the offences he is able to provide police with the exact method of entry and details of the property stolen. On the fifth burglary all he can say is that he did it. He has signed an MG18 for all the offences.

*The DDM is able to authorise four detections for burglary. There is no additional evidence linking the offender to the fifth burglary.*

Example 2: A prolific thief is asked during a PACE compliant interview about auto crime offences last year. He states "I only stole from Renaults. I bent the door back to get in. Any in this area will be done by me". He can not remember any further details except there was one in Station Road where the car was pink and he stole a saddle. There are 25 crimes with this method and one was from a pink Renault and a saddle was stolen. He signs the MG18 for all of the offences.

*The DDM is only able to authorise one detection for the Pink Renault. There is no additional evidence linking the offender to the other crimes.*

Example 3: A shoplifter wishes to have five street robbery offences taken into consideration. He signs the MG18

*Firstly Robbery is an indictable only offence and must be referred to the CPS for a decision under the Directors Guidance on Charging. Secondly, Robbery is not proportionate with a shoplifting charge. No TIC detections can be claimed at this time.*

Example 4: An offender admits in an interview to a crime that has not been recorded, and of which there is no evidence apart from the admission. The alleged victim is informed, but cannot confirm the crime.

*The crime should be neither recorded nor detected.*

### Methods of Detection

**(D) WHERE THE OFFENCE IS AN 'INDICTABLE ONLY' OFFENCE AND a Crown Prosecutor is satisfied there is sufficient evidence to provide a realistic prospect of conviction but has decided not to proceed with the case**

**OR**

**Where the offence is an 'indictable only' offence and the case can not proceed because the offender has died and a DDM has reviewed the case.**

### EVIDENCE

**THERE MUST BE SUFFICIENT RELIABLE (SUSTAINABLE) EVIDENCE to satisfy the evidential test set out in The Code for Crown Prosecutors for that crime in relation to that suspect.**

### Clarification

Once the Threshold Test set out in The Directors Guidance to Police Officers and Crown Prosecutors (issued by the Director of Public Prosecution under S37A of the Police and Criminal Evidence Act 1984) is met for indictable only offences the case must be referred to a Crown Prosecutor to make a charging decision. (Not applicable where the offender has died)

A DDM of the appropriate level must review all cases for consideration under D1.

# H Detections (6 of 13)

## D (Continued)

### Designated Decision Maker (DDM)

If, following submission to the CPS, the case is considered suitable for detection under this section, or where the offender has died, the case must be referred to an approved DDM.

The role of the DDM is to ensure that:

- The supporting documentation/case papers includes a copy of the MG3 certified by the Crown Prosecutor that there was sufficient evidence to charge.
- The victim (or their representative) has been informed of the fact that the case will be dealt with by way of no further action detection.
- The named offender, or in the case of disposals under D1 their representative, has been informed of the decision to record the offence as having been committed by them; made aware that the detection will be held against them; and that such material is available for disclosure and information sharing purposes where appropriate.

### Clarification

Persons undertaking the role must be approved by the ACPO officer responsible for crime recording, and may be a police officer or specialist civilian staff member (e.g. law clerk). The DDM may be undertaken by more than one person according to the individual needs of the force. However, they must be totally independent from the original investigation.

#### **D1. The offender dies before proceedings could be initiated or completed.**

Forces should ensure that the DDM involved in this decision making process is at an appropriate level for the seriousness of the offence being considered.

- The supporting documentation or case papers must contain sufficient evidence to charge had the offender not have died before proceedings could be initiated.
- The victim (where applicable) has been informed of the fact that the case will be dealt with by way of a no further action detection.
- The date and circumstances of the death together with details of the information source must be recorded in clear and auditable form.

#### **D6. The Crown Prosecution Service (CPS) by virtue of their powers under the Criminal Justice Act 2003 decides not to prosecute.**

- In accordance with the Statutory Charging Scheme all indictable only offences that meet the threshold test must be submitted to the CPS even where the police do not wish to prosecute.
- For disposals under D6 the evidential test must be met before the Public Interest consideration can be applied.
- The supporting case papers must include a copy of the MG3 certified by the Crown Prosecutor that there is sufficient evidence to charge the offender but prosecution is not in the public interest.

### **DISCONTINUED DETECTION METHODS – With effect from 1<sup>st</sup> April 2007**

With effect from the 1<sup>st</sup> April 2007 the following detection methods **will not** be recognised for statistical purposes and should not be included in force crime data submissions to the Home Office.

## H Detections (7 of 13)

### D (Continued)

- D2. The offender is ill and is unlikely to recover or is too senile or too mentally disturbed for proceedings to be taken.
- D3. The complainant or an essential witness is dead and the proceedings cannot be pursued.
- D4. The victim or an essential witness refuses, or is permanently unable, or if a juvenile is not permitted, to give evidence.
- D5. It is ascertained that a crime has been committed by a child under the age of criminal responsibility
- D7. The police decide that no useful purpose would be served by proceeding with the charge.
- D8. The DDM has authorised the detection on the basis that the time limit for commencing prosecution has expired.

### Methods of Detection

- (E) A PENALTY NOTICE FOR DISORDER (OR OTHER RELEVANT NOTIFIABLE OFFENCE) HAS BEEN LAWFULLY ISSUED UNDER S1-11 of the CRIMINAL JUSTICE AND POLICE ACT 2001.

**Current guidance can be found in Police Operational Guidance on Penalty Notices for Disorder issued by the Home Office in March 2005 and the Ministry of Justice Circular 2009/04.**

The guidance must be followed otherwise the detection can not be claimed.

### Evidence

**THERE MUST BE SUFFICIENT SUSTAINABLE EVIDENCE TO PASS THE CROWN PROSECUTION SERVICE (CPS) THRESHOLD TEST FOR THAT CRIME IN RELATION TO THAT SUSPECT.**

Application of the Threshold Test will require an overall assessment of whether in all the circumstances of the case there is at least a reasonable suspicion against the person of having committed the offence and that it is in the public interest to proceed.

The evidential decision will require consideration of:

- The evidence available at the time
- The likelihood and nature of further evidence being obtained
- The reasonableness for believing that evidence will become available
- The time that will take and the steps being taken to gather it
- The impact of the expected evidence on the case
- The charges the totality of the evidence will support.

*(Directors Guidance on Charging refers)*

### Clarification

- If the penalty notice is not contested, the detection can be counted.
- If the fixed penalty notice is contested, the case file must be forwarded to either CPS (where the maximum prison sentence is in excess of 3 months i.e. commercial/retail theft) or to a DDM (where the maximum imprisonment is up to 3 months i.e. Damage or Section 5 Public Order).
- Where the CPS or the DDM are presented with the contested file and they decide to proceed with the case, the detection stands.
- Where the CPS decides on the grounds of insufficient evidence not to proceed then the detection should be reviewed by a DDM.



## H Detections (8 of 13)

### E (Continued)

- Where the DDM decides on the grounds of insufficient evidence not to proceed or agrees with a CPS decision not to, then the detection must be cancelled.
- The DDM should not have been in any way involved in the original decision.
- If the DDM stands by the original decision, and is satisfied that there is sufficient evidence to meet the CPS Full Code Test, this should be recorded together with the grounds for the decision in auditable form, and the detection can still be counted as a penalty notice.

### Methods of Detection

#### (F) A WARNING FOR CANNABIS POSSESSION HAS BEEN ISSUED IN ACCORDANCE WITH ACPO GUIDANCE.

The guidance must be followed otherwise the detection can not be claimed.

### COUNTING AND CLASSIFICATION

#### Counting and Classification

- A DETECTION SHOULD BE COUNTED AND CLASSIFIED IN THE SAME WAY AS THE RECORDED CRIME (IE SAME CRIME TYPE). FOR EXAMPLE A ROBBERY CHARGE WILL CLEAR UP A ROBBERY CRIME.

#### Clarification

- If investigations reveal information which indicates that the crime amounts to a different crime than that originally recorded, then the crime should be reclassified by the FCR, and the detection counted the same as the final classification.

#### **APPLICATION OF THE RULE**

Example 1: A crime is recorded as a burglary. Investigation reveals theft by a member of the household who is charged with theft.

*Reclassify the burglary as a theft on the authority of the FCR. One crime of theft recorded and detected.*

Example 2: A crime is recorded as wounding with intent to do grievous bodily harm (class 5/1). The investigation fails to produce any evidence of intent and the offender is charged with wounding (class 8/1).

*The crime should be reclassified on the authority of the FCR to class 8/1 and detected.*

Example 3: An allegation of robbery is recorded and investigated. At the conclusion of the investigation police review the case and conclude that the evidence does not support a classification of robbery; theft from the person is made out.

*If the FCR agrees, reclassify to theft from the person (class 39) and detect if appropriate.*

- A RECORDED CRIME CAN BE DETECTED ONLY IF THERE IS EVIDENCE OR AN ADMISSION CONCERNING THAT PARTICULAR INCIDENT.

#### Clarification

- If investigations reveal evidence suggesting that crimes recorded under the principal crime rule were not in fact committed by the same offender(s) with the same victim, additional crimes should be recorded (in line with the NCRS) and may be detected accordingly.

## H Detections (9 of 13)

### PRINCIPAL CRIME RELATED OFFENCE RULE

#### Related Crime Definition

*'Any crime within a series of crimes arising from the same incident that involves the same victim and offender(s) which by virtue of HOCR General Rule F cannot ordinarily be recorded. In addition, where during the course of an investigation the victim alleges a more serious historic crime against the same offender which results in the reclassification of the original recorded crime.'* These less serious crimes should be regarded as related crimes.

- **Where there is only evidence to charge one of the related crimes the principal crime cannot be detected**
- **The related crime for which there is sufficient evidence should be additionally recorded and detected**
- **If there is evidence to charge more than one related crime the principal crime rule should be re-applied to the related crimes**

#### APPLICATION OF THE RULE

Example 1: The police are investigating a burglary, which has been recorded. A suspect is found with the stolen goods, but there is evidence of handling only (which he admits).

*The burglary remains undetected. An extra crime of handling can be recorded and detected.*

Example 2: A person reports a GBH, criminal damage to their vehicle and theft from their vehicle, taking place at the same time and committed by the same offender. The police record the GBH. A suspect admits the criminal damage but there is insufficient evidence to charge for the other two crimes.

*The GBH remains undetected. An extra crime of criminal damage can be recorded and detected.*

Example 3: A person reports a GBH, minor criminal damage to their vehicle and theft from their vehicle, but is uncertain of when the damage or theft was committed, or by whom. A suspect admits the criminal damage and theft, but denies the GBH, alleging it was committed by another person (ie a separate incident).

*Assuming NCRS is met, one undetected crime of GBH and one detected crime of theft (principal crime rule applies), provided there is sufficient evidence to charge.*

Example 4: An affray involving two offenders occurs where damage is caused to a shop window and a passer-by is assaulted. The damage and the assault are both recorded (different victims). The investigation reveals sufficient evidence to charge the offenders jointly with affray but there is insufficient evidence to show which offender actually caused the damage or carried out the assault although there is evidence to show that the damage and the assault were as a direct consequence of the affray.

*The damage and the assault can be shown as detected (method A).*

Example 5: A drunk person pushes into two people. They report assaults, and both are recorded as crimes. The suspect admits being drunk, and bumping into the people, but denies intending harm. The victims accept that there was no harmful intent. The suspect is charged with being drunk and disorderly.

*No-crime the assaults if recorded as crimes. Record the (non-notifiable) drunk and disorderly offence, but the detection cannot be counted as no notifiable offence has been recorded.*

## H Detections (10 of 13)

### APPLICATION OF THE RULE (CONTINUED)

Example 6: A woman makes a clear allegation of being assaulted by being punched in the face by her partner causing injuries consistent with ABH. A crime is recorded under class 8/06. During the investigation she alleges that the same partner raped her two months ago. On submission to the FCR the original crime is reclassified to an offence of Rape (class 019). An investigation finds no evidence to support a prosecution of Rape but the partner is charged with ABH.

*The offence of Rape remains recorded and undetected. An additional offence of ABH can be recorded and detected.*

### THE ALTERNATE OFFENCE RULE

#### Alternate Offence Definition

*'Any notifiable crime disposal which by reference to the material facts is directly linked to the circumstances of the originally recorded crime. However, compared to the recorded crime this disposal may attract a lesser penalty.'*

Where a crime (other than Murder or Rape), is recorded in accordance with the general principles of HOCR and there is no justification for reclassifying the crime and either:

- The CPS indicate on an MG3 that there is sufficient evidence to charge for the original offence but indicate that an alternate offence should be charged or cautioned, OR
- When submitted to the CPS the material facts that have been used for the original crime classification decision, are identical to the material facts used by the CPS in an alternate charging decision, endorsed by a DDM in auditable form, OR
- A Custody Officer has considered the evidence in a case falling outside the statutory charging scheme and has applied the CPS Charging Standards in auditable form on the custody record and charged or cautioned for an alternate offence OR
- For offences where the crime classification is not indictable only:  
The material facts that have been used for the original crime classification decision are identical to the material facts used in the alternate charging decision, endorsed by a DDM in auditable form

**THEN** the principal crime can be detected by the charging of an alternate offence.

**NOTE.** DDM involvement is not required where the correctly recorded crime is under class 8F (GBH without intent) or class 8G (Assault occasioning actual bodily harm and other injury) and the CPS Charging Standard has been applied and resulted in a charge or caution for a lesser Assault (It does not include resisting or obstruction offences) under code 8/6, or class 104 or class 105.

#### Alternate offence: Recorded Crime, cleared up by non notifiable crime.

A notifiable crime can be detected when the material facts relating to the circumstances of the originally recorded crime remain the same, but the disposal is for an alternate offence. The alternate offence in normal circumstances should be another notifiable offence, however, if the conditions below are met, it may be a non notifiable offence.

- An MG3 details the reasons for the CPS charging decision which relates to an alternate offence

### APPLICATION OF THE RULE

Example 1: An allegation of robbery is recorded and investigated. The CPS review the evidence and confirm that the circumstances do amount to robbery but it would be more appropriate to prosecute for theft.

*The robbery classification remains valid and can be detected.*

## H Detections (11 of 13)

### APPLICATION OF THE RULE (CONTINUED)

Example 2: A group of offenders are responsible for several burglaries, each of which has been recorded. There is sufficient evidence that the group is responsible for the burglaries but the police are unable to match individuals in the group to individual properties. CPS advises charging each member of the group with conspiracy to burgle.

*The burglaries can be detected.*

Example 3: A crime is recorded as wounding with intent to do grievous bodily harm (class 5/1). The investigation produces sufficient evidence to charge the offender but the CPS advise that the offender is charged with wounding (class 8/1).

*The original crime can be detected as the charge relates directly to the original assault.*

Example 4: An attempt to enter a house has been made by an unsuccessful use of force with a crow bar on the locks and door jamb of the front door. A crime has been recorded as an attempted burglary. The offender is later apprehended and admits causing the damage and is subsequently charged with criminal damage.

*The original crime of attempted burglary can be detected as the material facts used for the original classification are the same as that used for charging.*

Example 5: An offender is arrested at the time of causing deliberate damage with his elbow to a window adjacent to the door lock, on suspicion of attempted burglary. The offender is charged with criminal damage following an investigation, as there is no evidence to show any intent.

*The crime recorded and detected is criminal damage.*

**Where a crime has been recorded and a decision is taken to deal with the offender by issue of a PND then the crime may be detected under Rule E only if the material facts supporting the crime are the same as those supporting the issue of the PND.**

### APPLICATION OF THE RULE

Example 1: An offender is arrested for assaulting a victim causing injuries consistent with assault occasioning actual bodily harm. The offender is dealt with a PND for s5 POA.

*An offence of assault (class 08/06) should be recorded. This can not be cleared up by the s5POA offence as the material facts are not the same.*

### MURDER OFFENCES AND THE ALTERNATE OFFENCE RULE

Where the recorded crime is for an offence of Murder the alternate offence rule can only be applied where the offence charged is one of the four following offences:

- Manslaughter 4/1,
- Infanticide 4/2,
- Child Destruction 4/3 or
- Causing or Allowing Death of Child or Vulnerable Person 4/7.

## H Detections (12 of 13)

### MURDER OFFENCES AND THE ALTERNATE OFFENCE RULE (CONTINUED)

A DDM must ensure that all the three points below apply:

1. The Crown Prosecution Service confirm the offence of murder has been established
2. There is evidence to show that the alternate offence(s) with which the person or persons are charged are directly related to the death of the victim
3. The Crown Prosecution Service is satisfied that prosecution for the alternate offence(s) is in the public interest

If all the above apply and the crime record is endorsed to that effect by a DDM, then the alternate offence rule can be applied to a recorded crime of murder.

### RAPE OFFENCES AND THE ALTERNATE OFFENCE RULE

Where the recorded crime is for an offence of Rape the alternate offence rule can only be applied under the following circumstances:

- where the victim is a **willing participant** and the offence charged is one of the following offences under the Sexual Offences Act 2003, involving penetration of the mouth, vagina or anus with a penis:
  1. Sec 9(2) Sexual activity with a child
  2. Sec 13 Child sex offences committed by children or young persons
  3. Sec 25(6) Sexual activity with a child family member

OR

- where the CPS have indicated on an MG3 that there is sufficient evidence to charge with Rape but for public interest grounds decide to charge with an alternate offence.

OR

- where a charge is brought under
  1. Sec 2 Sexual Offences Act 2003, assault by penetration.
  2. Sec 30(3) Sexual activity with a person with a mental disorder impeding choice.
  3. Sec 34(2) Inducement, threat or deception to procure sexual activity with a person with a mental disorder.

#### APPLICATION OF THE RULE

Example 1: A 12 year old girl willingly participates in intercourse with her 15 year old boyfriend. This is correctly recorded as Rape under class 19/16. The CPS advise a charge under section 13 Sexual Offences Act 2003.

*The rape remains recorded and can be cleared up under the alternate offence rule (the victim is a willing participant).*

Example 2: An offence of rape of a 15 year old is recorded and investigated. The alleged offender aged 17 admits sexual intercourse but claims the victim consented. The victim denies having consented. CPS advise that there is insufficient evidence to secure a conviction for rape and prosecution is not in the public interest.

*There are no grounds for reclassification. The rape remains recorded and cannot be detected. (There is no justification for additionally criming an offence of causing sexual activity (class 22B) because the victim has confirmed the rape).*

## H Detections (13 of 13)

### APPLICATION OF THE RULE (CONTINUED)

Example 3: An offence of rape of a 15 year old is recorded and investigated. The alleged offender admits sexual intercourse but claims the victim consented. The victim denies having consented. CPS advise there is sufficient evidence to secure a conviction for rape, but on public interest grounds decide it is more appropriate to charge an alternative offence under class 22B (recorded on the MG3).

*There are no grounds for reclassification. The rape remains recorded and can be detected by way of the alternate offence rule. (CPS advise there is sufficient evidence to secure a conviction for rape, but on public interest grounds decide it is more appropriate to charge an alternative offence). There is no justification for criming an offence of causing sexual activity (class 22B) because the victim fails to confirm.*

- **A CRIME COMMITTED BY A GROUP OF PEOPLE CAN BE DETECTED WHEN ONE MEMBER OF THE GROUP HAS BEEN DEALT WITH FOR THE CRIME UNDER ANY OF THE METHOD OF DETECTION CATEGORIES A-F. HOWEVER THE INITIAL METHOD OF DETECTION CANNOT BE RE-CLASSIFIED TO ACCOUNT FOR THE APPREHENSION OF OTHER MEMBERS OF THE GROUP.**

The characteristics of a group are listed in Section D.

### APPLICATION OF THE RULE

Example 1: The police are investigating a burglary by a group of offenders. The burglary has been recorded. One member of the group is apprehended and cautioned. A further member is later charged.

*One burglary detected by means of a caution (method B).*

- **A DETECTION CANNOT BE CANCELLED ONCE FINALISED BY THE POLICE, UNLESS A GENUINE ERROR HAS OCCURRED.**

#### Clarification

As stated above, if the subsequent case is discontinued on evidential grounds, then the detection should not be cancelled if a DDM still stands by the reasons for charging or issuing a penalty notice.

- **THE METHOD OF DETECTION CANNOT BE CHANGED ONCE FINALISED BY THE POLICE, UNLESS A GENUINE ERROR HAS OCCURRED AND ONLY BY THE FCR.**

#### Clarification

This means that, for example, if a detection has been classified as a caution, it cannot be subsequently changed to a Charge/Summons, if another offender is later charged or summonsed.

- **CRIMES DEALT WITH BY OTHER FORCES SHOULD BE DETECTED BY THE FORCE THAT RECORDED THE CRIME. THE METHOD OF DETECTION WOULD DEPEND ON HOW THE SUSPECTS ARE DEALT WITH BY THE OTHER FORCE (eg if charged then method of detection would be a charge). GROUNDS FOR THE DETECTION MUST BE PROPERLEY RECORDED BY THE FORCE SHOWING THE DETECTIONS.**

# I Other Investigating Authorities (1 of 3)

The majority of criminal proceedings are instituted by the police ie cases where the police have investigated, arrested and brought the arrested person to the custody officer (*R v Stafford Justices, 1991*) and the Crown Prosecution Service (CPS) has a statutory duty to take over such proceedings. However, criminal proceedings can also be instituted by Other Investigating Authorities where the body concerned has a particular expertise or statutory interest.

- **IF THE POLICE HAVE PRIMACY OF INVESTIGATION, THEY MUST RECORD A CRIME.**
- **WHERE A VICTIM OR THEIR REPRESENTATIVE CONTACTS POLICE THEY MAY BE INVITED, ONCE ANY NECESSARY RISK ASSESSMENT HAS BEEN MADE, TO REPORT THE MATTER TO THE APPROPRIATE OTHER INVESTIGATING AUTHORITY AND WHERE THEY AGREE A CRIME NEED NOT BE RECORDED. IN ACCORDANCE WITH THE VICTIM BASED APPROACH OF THE NCRS IF THE VICTIM OR THEIR REPRESENTATIVE DECLINES THIS FACILITY A CRIME MUST BE RECORDED ALBEIT THE MATTER MAY BE REFERRED FOR INVESTIGATION, EITHER COMPLETELY OR PRIMARILY TO ONE OF THE OTHER INVESTIGATING AUTHORITIES. IN ALL CASES THE REQUIREMENTS OF BOTH THE VICTIM'S CODE AND POLICING PLEDGE SHOULD BE CONSIDERED.**

## Clarification

In these instances such cases will be by nature a type the Other Investigating Authority has a statutory duty to deal with or it is accepted practice for them to do so.

If a victim or their representative contacts the police they should be invited to report the matter to the appropriate authority, however, if the victim or their representative wish to make a formal allegation to the police this must be recorded.

- **IN ALL OTHER CIRCUMSTANCES WHERE THE POLICE ARE INVOLVED IN A JOINT INVESTIGATION WITH ONE OR MORE OF THE INVESTIGATING AUTHORITIES, THE LEAD BODY (IE WITH PRIMACY OF INVESTIGATION) WILL BE RESPONSIBLE FOR RECORDING A CRIME.**

## Clarification

On the rare occasions where joint investigations are deemed inappropriate, the police will be responsible for recording a crime for the specific offences where they have primacy of investigation while the Other Investigating Authority will be responsible for recording a crime in relation to specific offences for which they have primacy of investigation.

- **WHERE AN OTHER INVESTIGATING AUTHORITY PRESENTS DETAILS OF AN INCIDENT AMOUNTING TO A CRIME AND REQUESTS POLICE ASSISTANCE, ANY DECISION TO RECORD WILL BE MADE IN ACCORDANCE WITH THE GUIDANCE CONTAINED IN THIS SECTION.**

## Clarification

If a potential incident of crime occurs that relates to an Other Investigating Authority falls outside the scope of this section (eg burglary in an HM Revenue & Customs building), the Authority will be dealt with as a victim in the normal way. A decision to record should be made in accordance with paragraph 2.2 of the NCRS.

Where an Other Investigating Authority is the victim or is acting on behalf of the victim then the crime should be recorded in accordance with NCRS. Where an Other Investigating Authority is potentially both the victim and also the investigating body any formal request to record a crime must be considered in accordance with NCRS and this section of the Counting Rules.

Where an Other Investigating Authority brings a series of crimes to police attention as part of an exchange of information agreement or on an ad hoc basis, such data should be considered in its entirety and as intelligence. As a consequence such provision does not place a requirement on police to separately record crime.

## I Other Investigating Authorities (2 of 3)

Where victims report crimes to community support officers or their equivalent these should be recorded by the police (subject to the exception above in relation to an Other Investigating Authority bringing a series of crimes to police attention).

The Independent Police Complaints Commission (IPCC) has statutory powers to prosecute. An allegation of a crime made against a police officer in the execution of his/her duty and investigated on behalf of the IPCC will only be recorded as a crime once a decision has been made to proceed against an officer. Any allegation of a crime against a police officer which solely relates to his/her off duty activities should be dealt with in accordance with the NCRS and the Counting Rules.

### **APPLICATION OF THE RULE**

#### **Examples of crimes which SHOULD be recorded by the Police?**

- Example: The police are leading an investigation into a suspected murder in a prison.
- Example: The police in partnership with the Department for Business, Enterprise & Regulatory Reform (DBERR) are investigating a fraud and the police have lead responsibility.
- Example: Police are investigating an allegation of assault committed in a prison which has been brought to their attention by the Governor on behalf of the victim.
- Example: Police attend the scene of a fire at the headquarters of the Department for Environment, Food & Rural Affairs (DEFRA) which is designated as arson.

#### **Examples of crimes which SHOULD NOT be recorded by Police**

- Example: The Serious Fraud Office (SFO) has been solely responsible for the investigation and arrest of a suspect, although the police charge the suspect and submit papers to the CPS on behalf of the agency. The SFO has primacy of investigation.
- Example: The police provide PNC information, but no other assistance, to a DBERR fraud investigation. The DBERR has primacy of investigation.
- Example: The police offer custody facilities to customs officials who have apprehended smugglers and HM Revenue & Customs has primacy of investigation.
- Example: The police accompany customs officials in raiding a ship suspected of smuggling and HM Revenue and Customs (HMRC) has primacy of investigation.
- Example: The Department of Work & Pensions (DWP) provides the police with the names of benefit fraud offenders for intelligence purposes. The DWP has primacy of investigation.
- Example: The police assist DWP officials in surveillance work that leads to the apprehension of benefit fraudsters. DWP has primacy of investigation.



# I Other Investigating Authorities (3 of 3)

A list of organisations has been compiled which are defined as “Other Investigating Authorities” for the purpose of the Home Office Counting Rules and issues surrounding crime recording<sup>1</sup>:

- Attorney General’s Office
- Department for Business, Enterprise & Regulatory Reform (DBERR)
- Department for Work & Pensions (DWP)
- Department for the Environment, Food and Rural Affairs (DEFRA)
- Environment Agency (EA)
- Financial Services Authority (FSA)
- Health & Safety Executive (HSE)
- Maritime & Coastguard Agency (MCA)
- Office of Fair Trading (OFT)
- Office of Rail Regulation (ORR)
- Serious Fraud Office (SFO)

In addition to those authorities listed above these rules can be applied to other bodies with statutory powers to investigate and prosecute specific offences (eg local authorities) as well as agencies who do not have statutory powers to prosecute but where it is accepted practice for them to investigate and institute private prosecutions for specific offences (eg RSPCA).

FCRs should seek Home Office advice if it is unclear whether a particular agency not included in the above list meets the criteria contained in this Section.

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<sup>1</sup> The Attorney General’s Office (AGO) led the development of the Prosecutors Convention 2009, a formal agreement between various authorities with investigative and/or prosecutorial functions. The aim of the Convention is for the parties signed up to it to work together to ensure cases are conducted in a way which best serves the overall public interest. *[The Schedule to the Prosecutors Convention has been used as an initial framework for this Section until the proposed Investigators Convention has been agreed.]*

## J Other Issues (1 of 1)

### Attempts etc

In general, attempting, conspiring, inciting, aiding, abetting, causing or permitting a crime is classified under the heading of the crime itself, though in certain cases it is shown separately.

### Crimes Committed before 1 April 2010

- **CRIMES COMMITTED BEFORE 1 APRIL 2010, WHICH ARE RECORDED ON OR AFTER THAT DATE, SHOULD BE RECORDED ACCORDING TO THE RULES FOR COUNTING AND COVERAGE THAT APPLIES FROM 1 APRIL 2010.**

Under this rule, a crime committed in March 2010 but not coming to the police's notice until April 2010 should be recorded in April 2010 and can therefore be reclassified if appropriate.

### Crimes Recorded before 1 April 2010

- **CRIMES RECORDED BEFORE 1 APRIL 2010 SHOULD BE COUNTED ACCORDING TO THE RULES THAT APPLIED BEFORE 1 APRIL 2010, EVEN IF THEY ARE DETECTED ON OR AFTER THAT DATE.**
- **THE ABOVE RULES ALSO APPLY TO ANY COUNTING RULES REVISION OR AMENDMENT DATE.**

For example, crimes committed before 1 April 1998 which are recorded after 1 April 2010, should be recorded according to the current rules.

### Agreed procedure for dealing with crimes committed in the Air or at Sea

Where a crime is reported regarding theft of or from baggage in transit on an aircraft in flight and it is not clear where that offence occurred it shall be recorded as follows:

**For internal UK flights:** the report will be recorded as a crime by the force from where the aircraft departed. Offences reported to third party forces will be made subject of a crime-related incident and referred for crime recording to the airport of departure;

**For international flights arriving in the UK:** classify as a crime related incident but do not record the crime;

**For aircraft on international flights departing the UK:** the airport of departure;

**For other offences (ie other than theft in transit) reported on British registered aircraft anywhere in the world:** the airport from which the aircraft last departed the UK.

NOTE: THE ABOVE PROCEDURES ALSO APPLY TO CRIMES COMMITTED AT SEA - IE REPLACE 'AIRCRAFT' WITH 'SHIP' AND 'AIRPORT' WITH 'SEAPORT'.

### The Code of Practice for Victims of Crime

The Code of Practice for Victims of Crime places certain obligations on service providers (which includes the Police) to provide a minimum level of service to victims of crime.

This Code does not form part of the Home Office Counting Rules, but full details can be found at <http://www.homeoffice.gov.uk/documents/victims-code-of-practice>

**ANNEX A**

# National Crime Recording Standard (1 of 6)

## 1. AIMS

- To promote greater consistency between police forces in the recording of crime.
- To take a more victim oriented approach to crime recording.

## 2. GENERAL PRINCIPLES

The standard accords with three basic principles:

- 2.1 All reports of incidents, whether from victims, witnesses or third parties and whether crime related or not, will result in the registration of an incident report by the police.
- 2.2 Following the initial registration, an incident will be recorded as a crime (notifiable offence) for offences against an identified victim if, on the balance of probability:

(a) the circumstances as reported amount to a crime defined by law (the police will determine this, based on their knowledge of the law and counting rules),

and

(b) there is no credible evidence to the contrary.

For offences against the State the points to prove to evidence the offence must clearly be made out, before a crime is recorded.

- 2.3 Once recorded, a crime would remain recorded unless there was additional verifiable information to disprove that a crime had occurred.
- 2.4 It is important that the Standard supports a victim focused approach to crime recording where the Public's call for service is met.

## 3 GENERAL INTERPRETATION OF PRINCIPLES

- 3.1 The reasons for registering all incidents include the need to ensure forces have all available information in relation to possible crimes in their area and to allow an audit trail to be created, to ensure consistency of crime recording between forces. Where a report is recorded as a crime initially (eg telephone report direct to Crime Management Unit), it is not necessary that an incident report is also created. However, where the report is not initially recorded as a crime, an auditable incident report should be registered (whether on the Force Incident System or some other accessible and auditable means).
- 3.2 When examining a report of an incident regarding offences related to identified victims, the test to be applied in respect of recording a crime is that of the balance of probabilities: that is to say is the incident more likely than not the result of a criminal act? In most cases, a belief by the victim (or person reasonably assumed to be acting on behalf of the victim) that a crime has occurred is sufficient to justify its recording as a crime, although this will not be the case in all circumstances. Effectively, a more victim oriented approach is advocated.
- 3.3 The degree to which police forces investigate an initial report from a victim or person reasonably assumed to be acting on behalf of the victim to establish whether a crime has occurred or not will vary with the circumstances of the report. Such investigation may range from questioning over the telephone when the initial report is made, to fuller investigation of the circumstances surrounding the allegation. However, it is envisaged such further investigations, to facilitate the crime recording decision, would be the exception, not the norm, as a victim focused approach is to be taken.
- 3.4 An allegation should be considered as made, at the point of first contact, ie the stage at which the victim or a person reasonably assumed to be acting on behalf of the victim first makes contact with the police,

**ANNEX A****National Crime Recording Standard (2 of 6)**

be that by phone, etc or in person. If an alleged or possible victim cannot be contacted or later refuses to provide further detail, the Crime Recording Decision Making Process (CRDMP) should be based on all available first contact information.

- 3.5** The fact that a person is drunk or otherwise impaired might have a bearing on the balance of probability issue within the CRDMP. As a minimum an incident must be recorded and followed up by the police when the person is in a fit state. However, if at the time of reporting supporting evidence exists, a crime should be recorded, regardless of the victim's condition.
- 3.6** In all cases, a crime should be recorded as soon as the reporting officer is satisfied that it is more likely than not that a crime has been committed (in accordance with paragraph 2.2). It is a national requirement that an incident should be recorded as a crime within a standard timescale of 3 x 24 hour periods from the time the incident is first logged. A maximum of seven days is allowed (to cater for situations outside of the control of the police such as where victims are unavailable), providing the explanation for the delay is clear on the log. The only exception to this requirement is for undercover operations, where the FCR is satisfied that compliance is not possible due to the complexity, or possible compromise, of the investigation. In such circumstances the FCR should ensure compliance within the above timescales, immediately following the conclusion of the investigation. Furthermore, where an exception has been granted the FCR, in liaison with the authorising officer, must ensure that all crimes have been recorded.
- 3.7** Where apparent criminal activity comes to the attention of the police, and the victim confirms that a crime has taken place, but declines to support police action, a crime should be recorded. An unwillingness to support an investigation or prosecution should not be allowed to negatively influence the CRDMP. In circumstances where the police become aware of an incident where the points to prove are clearly made out for an Offence against the State, a crime should be recorded regardless of the fact that there may not be evidence to identify the offender(s); or where a suspected offender has been identified there may not be sufficient evidence to mount a successful prosecution.
- 3.8** Advice received from ACPO Data Protection Sub-Committee would indicate that the recording of a victim's personal details, possibly against their wishes, would be permissible under either Section 29 of the Data Protection Act 1998 (necessary for the prevention or detection of crime) or Schedule 2 [4] (necessary to protect the vital interests of the subject).
- 3.9** Where there are grounds to suspect that a victim related crime (ie a crime requiring victim confirmation for it to be complete) may have taken place but no victim (or person reasonably assumed to be acting on behalf of the victim) can immediately be found or identified, the matter should be recorded as a crime related incident until such time as the victim is located or comes forward.
- 3.9A** Where there are grounds to suspect that a victim related crime has taken place the victim or a person acting on behalf of the victim must confirm the circumstances relating to that crime for a crime to be recorded. It is not necessary for the victim to provide personal details or wish police to pursue the matter, only for them to confirm the circumstances surrounding the crime.
- 3.10** For example, apparent or possible criminal activity, such as damage to bus shelters, telephone kiosks, forensic items (blood) etc, which does not in itself amount to evidence of a crime, coming to the attention of the police after the incident either personally or via third parties, would not initially be recorded as a crime but as an incident pending further enquiries.
- 3.11** The concept of 'no victim no crime' as contained within paragraph 3.9 above is a guiding principle and should generally be adhered to. However, in *exceptional* cases where there is overwhelming evidence that a serious crime has been committed, a force may decide to record even though the victim has declined to confirm or cannot be found. The reason for non-compliance with paragraph 3.9 of the Standard must be contained within the crime record, which in turn must have been subject of FCR review.

**ANNEX A****National Crime Recording Standard (3 of 6)**

- 3.12** In the case of a public order incident where on the arrival of the police there is no continuing disorder and no specific intended victim, the incident will not be routinely recorded as a crime. Reasonable enquiries should be undertaken to identify specific victims and secure any supporting evidence which would enable further police action in terms of arrest or summons. Where enquiries fail to identify any victim or produce supporting evidence this will remain as an incident. Where police arrive at a scene and witness disorder, they will deal with the matter appropriately and, where notifiable offences are apparent, subject to the exception at paragraph 3.13 below, record a crime in accordance with the Home Office Counting Rules.
- 3.13** In the case of offences under Section 5 of the Public Order Act 1986 where there is no specific or intended victim (other than the police officer) and where an officer warns an offender to stop the unlawful behaviour and as a consequence of the offender heeding the warning, no further action is taken (other than implementing local diversionary initiatives excluding Penalty Notices for Disorder), the incident should not routinely be recorded as a crime but as a notifiable incident under NSIR by applying the appropriate NICL Anti-social behaviour category.
- 3.14** It is not the intention of the NCRS to record as crimes all incidents that could be construed as crimes when viewed on CCTV. Incident reports from CCTV systems should be treated as reports by a third party coming to the attention of the Police and treated in line with the principles set out in paragraphs 3.9 and 3.10. For example, where, as a result of events seen on CCTV, police officers attend the scene of a disturbance but all parties have left, this should be recorded as a crime related incident rather than as a recorded crime.
- 3.15** In all cases where apparent criminal activity is reported, but a crime is not initially recorded, the police would be expected to carry out reasonable enquiries to confirm whether a crime has, in fact, been committed through seeking confirmation, on the balance of probability, from the victim, a person reasonably assumed to be acting on behalf of the victim, witnesses or via other supporting evidence. Where this cannot be confirmed, the incident report should be endorsed with the enquiries made and for audit purposes, the reason why a crime was not recorded.
- 3.16** In adding to the general principle contained in paragraph 2.3 regarding no criming, there will continue to be four administrative reasons for no criming, as contained in Section C of the General Rules of the Home Office Counting Rules.
- 3.17** Annex A (page 6 of 6) shows the National Crime Recording Standard in flowchart form.
- 3.18** Definitive guidance in relation to crime recording will continue to be contained in the "Home Office Counting Rules for Crime". Additional examples will be included in the HOCR to facilitate clarification and specific interpretation of the National Crime Recording Standard. Additional offence specific clarification may be developed as a result of the consideration of local/national audits (see paragraph 4.4), and the seminar processes associated with the development of the Force Registrar infrastructure (see paragraph 4.2). Changes recommended from these sources will become incorporated into Home Office Counting Rules.
- 3.19** The Home Office Counting Rules will along with the Standard (as outlined at paragraph 3.18) be subject of ongoing and timely development, which will be managed by the National Crime Recording Steering Group (NCRSG). Any amendments will be made on an annual basis.

**4 SUPPORTING PROCESSES****4.1 Leadership**

The adoption of a consistent and victim oriented crime recording standard will require an unequivocal statement and clear commitment from Chief Officers and local BCU Commanders. Chief Officers would doubtless wish to ensure on an ongoing basis that each Force's position on crime recording was clearly articulated throughout the organisation, and that the Service and personal implications of such an approach were understood.

**ANNEX A**

## National Crime Recording Standard (4 of 6)

### 4.2 Force Crime Registrar (FCR)

To ensure the National Crime Recording Standard is maintained within the Force and to provide greater consistency within and across Forces, each Force should appoint an FCR to act as final arbiter for the audit process, the interpretation of the counting rules and detections. The FCR must have due regard to advice on counting rules received via National Crime Recording Steering Group structures. The FCR must be outside operational line command and answerable to the Chief Officer with overall responsibility for the accuracy and integrity of crime recording processes. To ensure that the responsibilities of the post are effectively met a deputy or other identified person, should be appointed.

#### **Key tasks:**

- The development, implementation and monitoring of crime recording and detection policies and subsequent audit programmes to ensure high standards of data integrity.
- The achievement of a more consistent and accurate response to crime recording.
- To ensure prompt and adequate circulation of changes in counting rules, policy etc.
- To chair or be involved in Force crime recording user group meetings.
- To act as Force representative and Home Office contact on the subject of crime recording.
- To have regular contact with other FCRs through regional and national structures with the remit to maintain standards between Forces which are consistent with the National Crime Recording Standard.

There is full recognition that the FCR role and responsibilities continue to evolve over time.

The full role profile, as developed by Skills for Justice, has been included on the NCRS intranet site.

### 4.3 Force Systems

#### 4.3.1 The Incident Recording System

Forces should seek to capture all incidents coming to the notice of the police so as to establish an accurate and timely picture of what is happening locally. This will usually be in the form of a command and control system incident, but will vary with force circumstances. It is envisaged that all future incident and crime recording systems should be fully integrated or at least linked to facilitate tracking and audit between the systems.

For audit purposes, where recorded incidents appear to be crime related, they should either result in a recorded crime being created or an account of the reasons for not completing a crime report sufficient to show that the National Crime Recording Standard has not been breached.

#### **Key aspects:**

- Adequate distribution of input terminals to encourage full and accurate recording.
- Adequate guidance and supervision in respect of the classification and closing of incidents.
- Incident logs to be cross-referenced with the crime system and vice-versa.
- Appropriate query tool mechanisms to be in place with the system being able to adequately respond to different user requirements.
- Incidents that do not result in a recorded crime to include sufficient account to show that the force has complied with NCRS and NSIR.

#### 4.3.2 The Crime Recording System

A modern crime recording system, available force wide, is essential to the proper implementation of the National Crime Recording Standard.

**ANNEX A**

## National Crime Recording Standard (5 of 6)

**Key aspects:**

- Good user-friendly crime recording system.
- The crime recording system should be capable of proper audit.
- Ideally, there should be an automatic link between incident recording and crime recording systems.
- Any future development of Crime Recording systems, be it at a national or force level, will need to take account of the National Crime Recording Standard and any associated audit requirement.

### 4.3.3 The Crime Recording Process

Responsibility for the recording of crime should be placed in the hands of a dedicated and highly trained group of staff, such as is common in dedicated Crime Recording/Crime Management Units, whether centrally or locally based.

**Key aspects:**

- Forces with a centralised crime recording facility should provide a local crime management function to ensure proper local monitoring and response.
- Realistic staffing levels.
- Staff tasked with recording crime should be fully trained eg customer care skills, investigative skills, SOCO aware, victim support knowledge etc.
- Adequate supervision to ensure a competent and consistent service.
- All stages of the process from initial recording to final disposal should be subject to scrutiny by trained staff.
- All decisions made should be auditable.
- Appropriate, centre-led 'User Groups' to meet regularly with regards to determination of best practice, changes on policy/rules and problem-solving.
- Maximum use made of force communication facilities to disseminate changes in policy or highlight areas causing difficulty.

### 4.4 Audit (national and local)

An essential element of the National Standard is the need for regular and on-going local and national scrutinisation at all stages of the process.

**Key aspects of Scrutiny Process:**

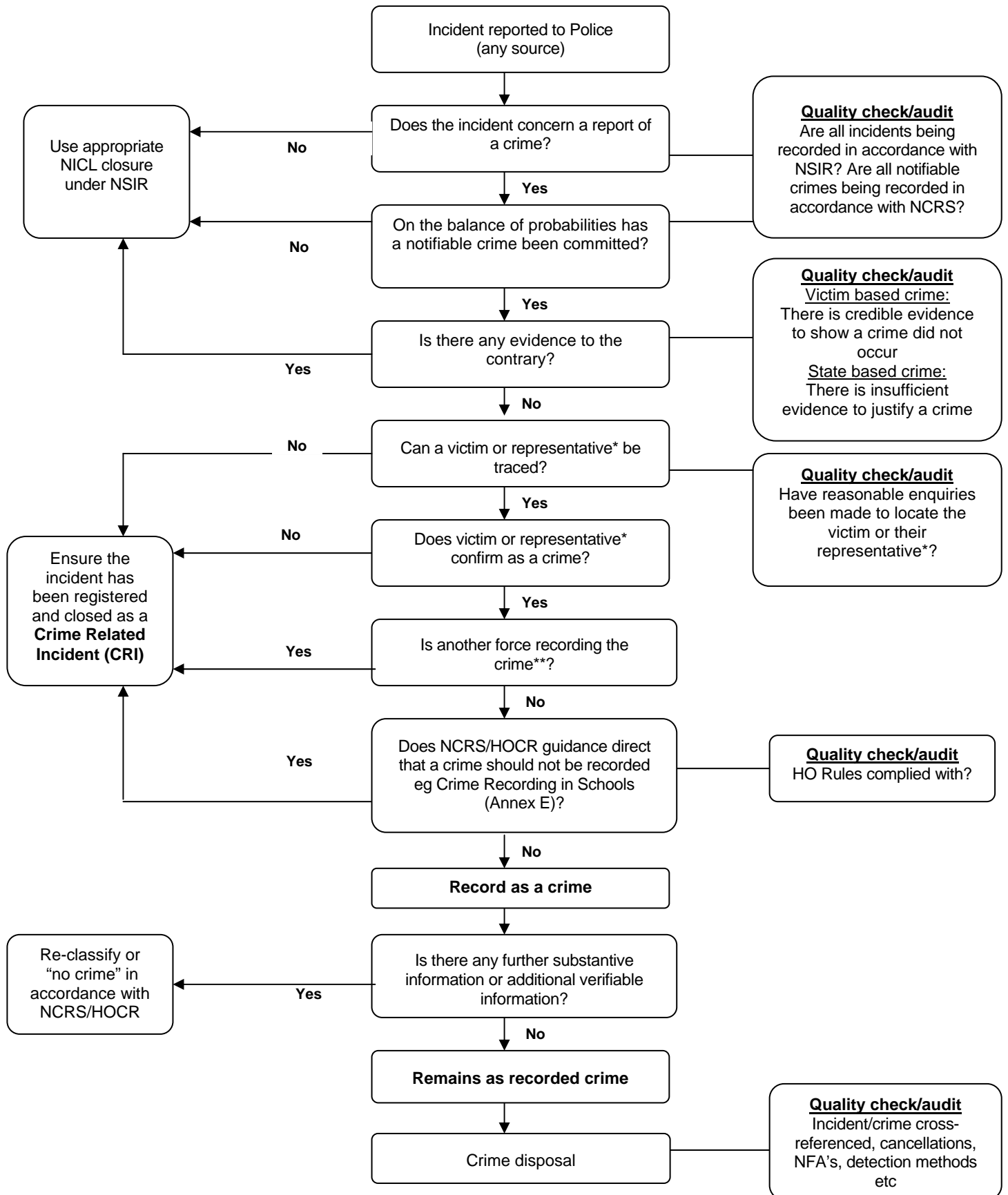
- Consistency - the least number of staff involved the better.
- Investigators classification to be provisional.
- Classification to be validated by trained staff prior to final acceptance.
- Scrutiny to be devoid of operational line management pressures.
- Alleged incidents not subsequently recorded as a crime to be supported by appropriate rationale and routinely vetted to ensure conformity with recording model.
- Check in respect of: accuracy and completeness of data, appropriate investigation undertaken, correct disposal.
- Development of agreed audit mechanism for local use, which must be capable of being used either electronically or manually to suit the systems used in different forces.
- Arrangements to undertake national audit need to be developed.

Force compliance with the NCRS and the maintenance of data quality may be subject to external review by Her Majesty's Inspectorate and Audit Commission as part of their respective statutory powers. However, primary responsibility for the maintenance of crime data quality rests with the nominated Chief Officer with overall responsibility for the accuracy and integrity of crime recording processes within individual forces. FCRs play a key role in support of their nominated Chief Officer to ensure that adequate arrangements are in place for local data quality reviews through self-audit. Building on the previous work carried out by the Home Office Police and Crime Standards Directorate and their partner agencies, the Audit and Inspection Working Group will, on behalf of the National Crime Recording Steering Group, develop and maintain a data quality assurance toolkit for forces to facilitate a consistent approach to data quality management through self-audit.

**ANNEX A**

**National Crime Recording Standard (6 of 6)**

All reports of incidents, whether from victims, witnesses or third parties and whether crime related or not will result in the registration of an incident report by the police.



\* Paragraph 3.11 of the NCRS provides guidance on recording crimes in *exceptional* cases even though a victim has declined to confirm or cannot be found (NB: Representative means, "A person reasonably assumed to be acting on behalf of the victim")

\*\* Disputes over location should be resolved in accordance with the protocol (HOCR, General Rules, Annex C)



**ANNEX B****Extract From CPS Code for Crown Prosecutors (1 of 1)**

- Some common public interest factors against prosecution.

A prosecution is less likely to be needed if:

- The court is likely to impose a nominal penalty;
- The defendant has already been made the subject of a sentence and any further conviction would be unlikely to result in the imposition of an additional sentence or order, unless the nature of the particular offence requires a prosecution;
- The offence was committed as a result of a genuine mistake or misunderstanding (these factors must be balanced against the seriousness of the offence);
- The loss or harm can be described as minor and was the result of a single incident, particularly if it was caused by a misjudgement;
- There has been a long delay between the offence and the trial, unless:
  - (C) The offence is serious;
  - (D) The delay has been caused in part by the defendant;
  - (E) The offence has only recently come to light; or
  - (F) The complexity of the offence has meant that there has been a long investigation;
- A prosecution is likely to have a bad effect on the victim's physical and mental health, always bearing in mind the seriousness of the offence;
- The defendant is elderly or is, or was at the time of the offence, suffering from significant physical or mental health, unless the offence is serious or there is a real possibility that it may be repeated;
- The defendant has put right the loss or harm that was caused (but defendants must not avoid prosecution solely because they pay compensation); or
- Details may be made public that could harm sources of information, international relations or national security.

**ANNEX C**

# National Crime Recording Steering Group Protocol for Managing Reports of Crime Occurring in Other Police Force Areas (1 of 2)

## 1) Aims

To establish a consistent approach by police forces<sup>2</sup> in managing reports of crimes and crime-related incidents<sup>3</sup> occurring in other police force areas whilst adhering to the aims and principles of the National Crime Recording Standard (NCRS).

- To ensure that the needs of the victim are met by the provision of a professional high quality service.
- Provide a mechanism for resolving disagreements between forces in relation to transfers of crimes between forces.

*NB This protocol does not seek to address any operational considerations in relation to resource deployment, preservation of evidence or dealing with suspected offenders.*

*\*References to police forces in this document should be interpreted to include the British Transport Police, the MOD Police and the UKAEA Constabulary.*

## 2) General Principles

All reports of incidents occurring in a police force area other than that covered by the force receiving the first report, will result in the creation of a crime-related incident<sup>2</sup> report in accordance with NCRS General Principle 2.1.

- Following the initial report, details of the incident will be transferred to the force identified as being the owning force. The victim, or person making the report, will be advised of the action to be taken.
- Upon receipt of the details the owning force will either record the crime or, in appropriate cases, create a crime related incident report.
- The crime related incident<sup>2</sup> or crime reference number of the force having ownership will be supplied to the force who received the original report to provide a cross-reference to the original crime related incident report thus providing an audit trail across the forces.
- The force having ownership will be responsible for further contact with the victim or person making the original report.
- If the circumstances are such that clear ownership cannot be established, the incident or crime will be recorded and dealt with by the force receiving the first notification.
- A force declining to accept a transfer will create a Crime Related Incident<sup>2</sup> documenting the reasons why they are refusing. Reports will be cross-referenced between the forces.

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<sup>2</sup> *References to police forces in this document should be interpreted to include the British Transport Police, the MOD Police and the UKAEA Constabulary.*

<sup>3</sup> *Crime related incidents. This term is used to describe a record of an incident where a report of an incident has come to police attention which, on the Balance of Probabilities, would amount to a notifiable crime, but a resultant crime has not been recorded. The specific circumstances where this would happen are: -*

- *The incident is reported by a party other than the alleged victim (or person reasonably assumed to be acting on behalf of the victim) and either:*
  - *the alleged victim (or person reasonably assumed to be acting on behalf of the victim) declines to confirm the crime Or*
  - *the alleged victim (or person reasonably assumed to be acting on behalf of the victim) cannot be traced.*
- *Or*
- *The incident is being dealt with and recorded by another police force*
- *Or*
- *The NCRS or a specific rule within HOCR, or appendix thereto directs that a crime should not be recorded (e.g DCSF Crime Recording by Police Officers Working in Schools Guidance).*

**ANNEX C**

# **National Crime Recording Steering Group Protocol for Managing Reports of Crime Occurring in Other Police Force Areas (2 of 2)**

## **Conflict Resolution**

Where there is disagreement between the force receiving the original report and the force identified as having ownership, the following action will be taken:

- The force receiving the original report will refer the case to their Crime Registrar for review.
- The Crime Registrar from the original force will review the circumstances and decide, in consultation with the other force Registrar, if the case is suitable for transfer.
- If the Registrars cannot reach agreement within two working days, the force taking the original report will be responsible for finally recording the incident or crime.
- Whilst the question of ownership is being resolved the original force has a duty to ensure that all necessary steps are taken in relation to victim care, preservation of evidence and meeting the immediate needs of the investigation.

Where it is considered appropriate for the purpose of seeking clarification, cases giving rise to disagreement may be referred to the National Crime Recording Standard Steering Group, via the Regional Representative, for further consideration.

**ANNEX D****Evidence Based Crime Recording (1 of 1)****Clarification**

Offences against the State (NCRS Para 2.2 as amended) are offences where the offence is made out notwithstanding the fact that the crime in question is not directed toward a specific intended victim. Offences of this nature may be discovered by the police but may equally be brought to our attention by members of the public. Regardless of how the police are made aware of the offence the decision to record the crime will be based on the evidence available; this will include the evidence of members of the public and police officers who have witnessed criminal behaviour; as well as physical evidence such as the discovery of a Cannabis Factory in a disused premise.

There will be circumstances where there is evidence to show that an offence has been committed against the State although the identity of the offender(s) hasn't been established; the discovery of article used in connection with producing counterfeit currency will be evidence of an unlawful operation regardless of the fact that the offenders aren't known. However, there will be cases where the offence is only made out if the criminal liability of the offender can be proven. The fact that an offender is found in possession of controlled drugs won't amount to a notifiable crime if it cannot be established that the person's possession is unlawful; i.e. he/she was ignorant of the nature of the substance. A person found to be unwittingly in possession of a banknote stained with Cocaine isn't criminally liable therefore a crime should not be recorded.

The evidence in each case must be assessed on its merit; this will often involve an assessment of the evidence by the Crown Prosecution Service. If the role of the alleged offender is critical to establishing the offence a crime should not be recorded if the collated evidence fails to establish a bone fide case against that person. If the crime has been previously recorded the offence should be considered for recording as No Crime

With the exception of offences contrary to Sections 4 and 4a, which are victim based, the offences covered by the Public Order Act 1986 fall within the Offences against the State category. However, in the majority of cases the behaviour supporting the contravention of the Act will be directly witnessed by persons who are adversely affected by the behaviour. The evidence provided by these witnesses must always be fully considered when assessing evidence for crime recording purposes. Where witnesses provide clear evidence that they were alarmed, harassed, distressed, threatened, or given cause to fear for their personal safety etc the circumstances will normally amount to a crime being recorded; unless another essential element of the offence is missing. Alternatively where there is no direct evidence from witnesses to support a breach of the Public Order Act a crime should not be recorded unless there is other reliable and admissible evidence to prove that the Act has been breached.

Where the only witness to a Section 5 Public Order Act offence is a Police Officer, due regard should be given to the stated case of R v Orum.

**ANNEX E**

# Crime Recording by Police Officers Working in Schools (1 of 6)

Guidance entitled 'Crime Recording by Police Officers Working in Schools' issued in March 2004 was revised and jointly issued by the Department for Children, Schools & Families, Home Office and Association of Chief Police Officers in July 2007. The revised guidance is included here for ease of reference along with a flowchart based on the guidance to assist when recording incidents that take place on school premises.

"[1] The Association of Chief Police Officers, Department for Children, Schools and Families (DCSF) and the Home Office developed this note as part of a joint approach to address crime recording by police officers working in schools in England. It has been agreed by the Home Office National Crime Recording Steering Group (NCRSG). The note presupposes that it remains the responsibility of school managers and staff, not police officers, to deal with and record behavioural incidents involving children and young people on a school site in the first instance, even though it may be decided later that some cases amount to criminal conduct.

## Introduction

[2] In April 2002, the police service in England (and Wales) adopted the National Crime Recording Standard (NCRS). It governs the way in which the police record crime. Under this standard, the police will record an incident as a crime (notifiable offence) if, on the balance of probability:-

[a] the circumstances as reported amount to a crime defined by law (the police will determine this, based on their knowledge of the law and counting rules); and

[b] there is no credible evidence to the contrary.

[3] The police service is developing the work it carries out within schools, for example, some police forces work within multi-agency partnerships to provide an early intervention and preventative approach to tackling offending, victimization and social exclusion. This is beneficial to the police and to schools, and the Government encourages such an approach, for example, in the Safer School Partnerships Mainstreaming guidance published in March 2006 <http://www.everychildmatters.gov.uk/ete/ssp>. Further internet links can be found at [6] below that provide advice on schools' responsibilities for recording incidents. At the same time, it remains important that police officers conform to and do not usurp the disciplinary authority of a school.

[4] The Government and police forces are committed to maximising cooperation and negotiation, and minimising any risk of conflict between points [2] and [3] above. Clearly, a police officer could either witness directly, or be informed about, an incident taking place which would normally result in the officer recording it as a crime.

[5] In order to sustain the disciplinary authority of schools, this guidance clarifies the general principles of NCRS as they apply specifically to incidents on school premises. When police have reported to them an incident which took place on school premises, including those witnessed by, or reported directly to, officers working in the school, which they would normally record as a notifiable offence will, in the first instance, invite the victim or the person acting on their behalf to report the matter to the head teacher to be dealt with under normal school discipline procedures. Such reports should be recorded as an incident only, until or unless:-

(a) they judge it to be a serious incident as defined below;

(b) having brought the matter to the attention of the school in line with good practice (see references to guidance papers below), they receive a formal request from the school to create a crime record; or

(c) the child, parent or guardian or the child's representative asks the police to create a crime record.

**ANNEX E**

# Crime Recording by Police Officers Working in Schools (2 of 6)

## Schools' responsibilities for recording incidents

[6] The employer (in most schools, the Local Authority (LA)) has a statutory obligation to report to the Health and Safety Executive any incident which leads to an employee being absent from work for three days or more. Violence to other pupils or staff, criminal damage to property of the school or of people in the school, theft, disorder or substance misuse are all matters that schools will want to address, and for which schools will therefore need proper recording procedures. To assist both education staff and police officers in responding to incidents, it is useful to refer to guidance which the Department for Children, Schools and Families has issued to schools on recording incidents, in particular:-

- **"Dealing with Troublemakers"**, joint School Security guidance with the Home Office (1997), under "cooperation between police and schools", advises on reporting and recording incidents, including specifically incidents of racial harassment, and provides a model of an incident report form; <http://www.teachernet.gov.uk/doc/9232/SchoolSecurity.doc>
- **"A Legal Toolkit for schools"** (2002) underlines that it is good practice to record all incidents of abuse, threatening behaviour or violence against any members of a school community, and that Health and Safety regulations may require an employer, in cases of injury to staff from assault, to make a report to the Health and Safety Executive; <http://publications.teachernet.gov.uk/eOrderingDownload/dfes-0504-2002.pdf>
- **"Bullying – don't suffer in silence"** (2000, revised 2002, currently being revised and due to issue in September 2007 under the new title of "Safe to Learn: Embedding Anti-Bullying Work in Schools") says that by law head teachers must have disciplinary measures in place to prevent all forms of bullying among pupils. The DCSF advises that a school's anti-bullying policy includes references to all forms of bullying, including racist bullying, homophobic bullying, bullying related to special educational needs, and cyberbullying. It also advises that a school should keep accurate records of incidents, and the school's response to the bullying, to help with proceedings and ensure that every incident is taken seriously and dealt with appropriately.
- **Drugs: guidance for schools** (Feb 2004, ref DfES/0092/2004) recommends action by head teachers, chairs of governors and LAs, and says that while schools have no legal obligation to report an incident involving illegal drugs to the police, not informing the police may prove to be counter-productive for a school and its wider community. The police should be involved in the disposal of suspected illegal drugs, and schools should liaise closely with their local police to agree a policy for dealing with the range of incidents that might arise. The guidance recommends criteria to agree with the police for a school drugs policy, including when the police should be informed or consulted, or actively involved, and when in a very few cases the police may decide to act regardless of a school's preferences; <http://www.teachernet.gov.uk/PSHE>
- DCSF **'Advice on whole school behaviour and attendance policy'** in Key Stage 3 training materials sent to all schools, states (para 41): All schools' behaviour policies must make clear that racial harassment will not be tolerated and must say how staff and pupils will deal with it. The school should record all **racist incidents** (a footnote draws attention to a definition from the Stephen Lawrence Enquiry); parents and governors should be informed of such incidents and action taken to deal with them. Governing bodies should inform local education authorities annually of the pattern and frequency of such incidents. [http://www.dcsf.gov.uk/ibis/departments\\_publications/behaviour.cfm](http://www.dcsf.gov.uk/ibis/departments_publications/behaviour.cfm)

**ANNEX E**

## Crime Recording by Police Officers Working in Schools (3 of 6)

- The DCSF will be publishing new guidance in the autumn offering advice and case studies to maintained schools and local authorities on how to improve procedures for recording and reporting racist incidents. The guidance supports the Home Office document '*Community Cohesion Standards for Schools*', DfES/CRE- Home Office (2004), which emphasises the importance of the school's role in building social cohesion with clear standards. It will be intended to be read alongside the DCSF Advice on *Bullying around racism, religion and culture* (2006), which offers advice on how to prevent racist bullying; how to counter it when it happens and include guidance on supporting those who have suffered racist bullying and to challenge those responsible. The guidance will be available in the autumn at: <http://www.standards.dcsf.gov.uk/ethnicminorities>.

[7] Schools should lead discussions with representatives of their local police and should agree a protocol on how they will work together. Among other benefits, protocols create a framework for police and schools which should reduce the frequency of possible differences of view on individual cases. They also provide a mechanism to negotiate on and resolve any differences if they do arise, as they might from time to time. Examples of protocols are available in the Safer School Partnerships Resource Pack on the Every Child Matters website <http://www.everychildmatters.gov.uk/ete/ssp/resources/>

### **The nature and seriousness of incidents in schools**

[8] When requested by the school, officers should consider the nature and seriousness of an incident before deciding whether to officially record the matter, immediately or at a later stage, as a recordable crime. A serious incident is as defined within the 'Serious Incidents' section below (this is the same as defined by the now repealed Section 116 of the Police and Criminal Evidence Act 1984). In addition, a serious incident is one which in the view of the child, parent or guardian or the child's representative any incident that has led or is intended to, or is likely to or threatened to lead to serious harm or loss to any school child.

[9] Good practice issued by the Department for Children, Schools and Families emphasises that matters taking place at school should be recorded by the school. When a serious incident (as defined above) occurs, schools and police should take the following action:-

- [a] The school records the serious incident;
- [b] The school reports the serious incident to the police;
- [c] The police officer records the serious incident as a crime in accordance with the NCRS.

### **Concluding comments**

[10] It is important that officers working in schools can show that, when it has been agreed with the school to record an incident as a crime, they are adhering to an ethical crime recording policy, and that once a course of action has been agreed following discussions with school staff, a victim and his or her parents, a detailed record is made both by the school and the officer of the actions taken. In the first instance, the school and the police officer should make every attempt to reach a consensus with each other on how incidents should best be dealt with. It is important that the school and the police are consistent in their approach to the recording of incidents, and accurate records are kept identifying the nature of the incident and how it was dealt with.

[11] This note remains subject to the principle that if a victim of a crime, his or her parents or their representative wish to make a formal allegation to the police, this must be recorded and investigated formally."

**ANNEX E****Crime Recording by Police Officers  
Working in Schools (4 of 6)**

Serious incidents referred to within the guidance are defined as:

- (a) treason;
- (b) murder;
- (c) manslaughter;
- (d) kidnapping;
- (e) causing an explosion likely to endanger life or property (Explosives Substances Act 1883, s 2);
- (f) possession of a firearm with intent to endanger life, use to resist arrest or carrying a firearm with criminal intent (Firearms Act 1968, ss 16, 17 and 18);
- (g) hostage taking (Taking of Hostages Act 1982, s 1);
- (h) hijacking (Aviation Security Act 1982, s 1);
- (i) torture (Criminal Justice Act 1988, s 134);
- (j) causing death by dangerous driving (Road Traffic Act 1988, s 1);
- (k) causing death by careless driving when under the influence of drink or drugs (Road Traffic Act 1988, s 3A);
- (l) endangering safety at aerodromes, hijacking ships, seizing or exercising control of fixed platforms (Aviation and Maritime Security Act 1990, ss 1,9 and 10);
- (m) hijacking Channel Tunnel trains, or seizing or exercising control of the tunnel system (Channel Tunnel (Security) Order 1994, arts 4 and 5);
- (n) taking, making etc indecent photographs or pseudo-photographs of children (Protection of Children Act 1978, s 1);
- (o) the publication of obscene matter (Obscene Publications Act 1959, s 2);
- (p) an offence under the Customs and Excise Management Act 1979, s170, of being knowingly concerned, in relation to any goods, in any fraudulent evasion or attempt at evasion of a prohibition in force concerning importation of indecent or obscene articles;
- (q) rape (Sexual Offences Act 2003 (SOA 2003), s 1);
- (r) assault by penetration (SOA 2003, s 2);
- (s) causing a person to engage in sexual activity involving penetration without consent (SOA 2003, s 4);
- (t) rape of a child under thirteen (SOA 2003, s 5);
- (u) assault of a child under thirteen by penetration (SOA 2003, s 6);
- (v) causing or inciting a child under thirteen to engage in a sexual activity involving penetration (SOA 2003, s 8);
- (w) sexual activity with a person with a mental disorder impeding choice, where the touching involved penetration (SOA 2003, s 30);
- (x) causing or inciting a person with a mental disorder impeding choice to engage in sexual activity involving penetration (SOA 2003, s 31)
- (y) causing or allowing the death of a child or vulnerable adult (Domestic Violence Crime and Victims Act 2004, s 5).

Also any offence specified in the Proceeds of Crime Act 2002 (PCA 2002), Sch 2, paragraph 1 (drug trafficking offences) or any offence under PCA 2002, s 327, 328 or 329 (certain money laundering offences).

Any other offence is serious only if its commission has led to any of the consequences set out below, or is intended to lead to any of those consequences:

- (a) serious harm to the security of the State or to public order;
- (b) serious interference with the administration of justice or with the investigation of offences or of a particular offence;
- (c) the death of any person;
- (d) serious injury to any person;
- (e) substantial financial gain to any person; and
- (f) serious financial loss to any person.



**ANNEX E**

## **Crime Recording by Police Officers Working in Schools (5 of 6)**

If any other offence consists of making a threat, it is 'serious' if the consequences of carrying out the threat would be likely to lead to one of the consequences set out above at (a) to (f).

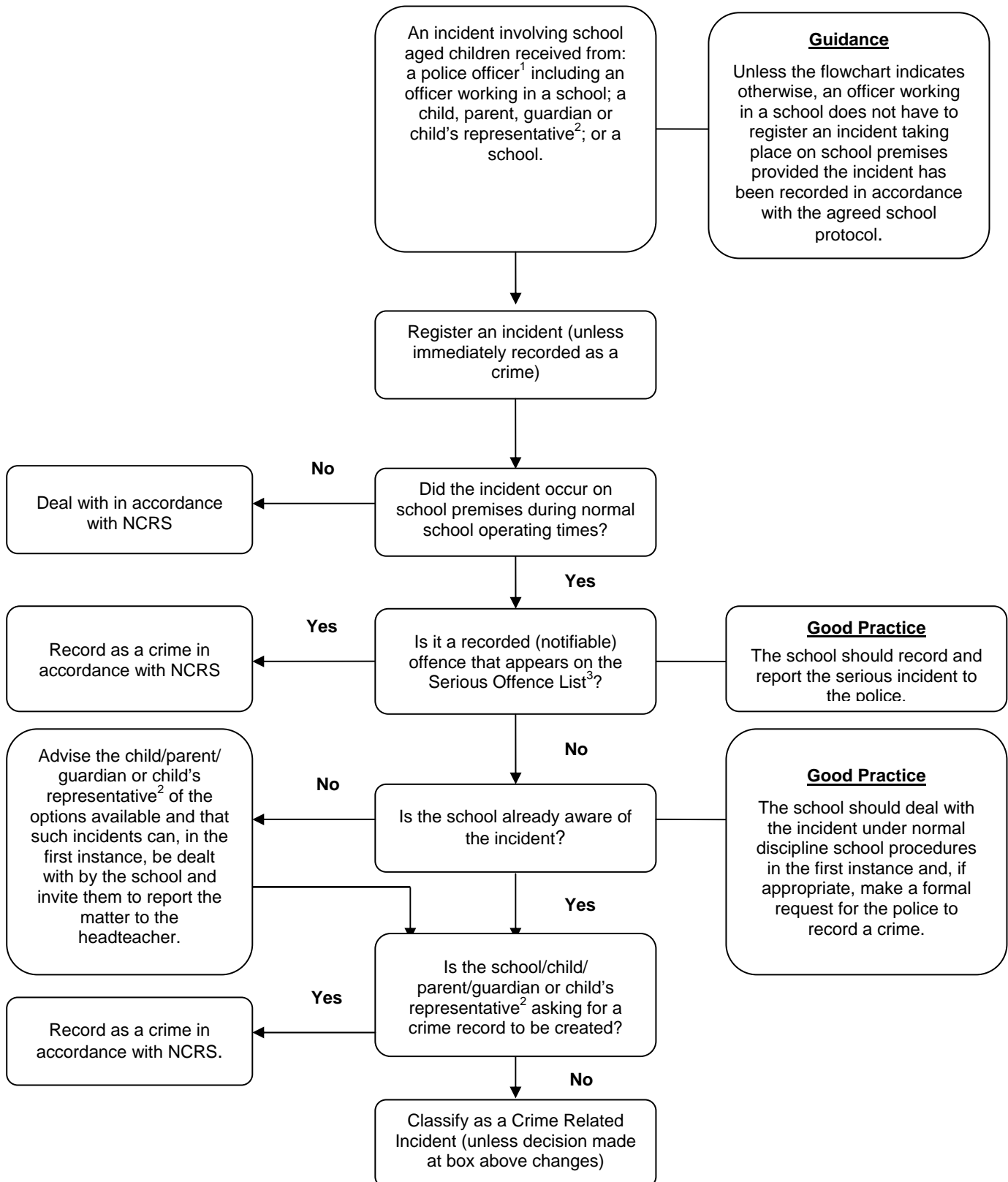
The term 'injury' includes any disease and any impairment of a person's physical or mental condition.

Financial loss is 'serious' for the purpose of the section if, having regard to all the circumstances, it is serious for the person who suffers it. Whether or not a loss, actual or intended, is serious will depend partly on the victim's circumstances. A theft of £1,000 worth of property from a millionaire would perhaps not represent serious financial loss in the minds of some justices, whilst the loss of £100 worth of property by a pensioner could be considered to be serious in those circumstances.

**ANNEX E**

# Crime Recording by Police Officers Working in Schools (6 of 6)

## Recording of incidents on school premises



<sup>1</sup> Police officer includes appropriate members of the extended police family e.g. Special Constables, PCSOs.

<sup>2</sup> Representative means "A person reasonably assumed to be acting on behalf of the victim".

<sup>3</sup> A list of serious incidents (previously known as "serious arrestable offences") is defined on page 4 of 6. The list is extracted from the annex to the revised Crime Recording by Police Officers Working in Schools document jointly issued by the Department of Children, Schools and Families, the Home Office and the Association of Chief Police Officers in July 2007.

**ANNEX F****Principal Crime Look-up Table (1 of 1)**

<b>Principal Crime Look-up Table</b>		
<b>Crime type</b>	<b>Home Office classification</b>	<b>Maximum sentence</b>
Homicide	1	Life
Attempted murder	2	Life
Rape	19/7-19/14	Life
Robbery	34	Life
Conspiracy to murder	3/2	Life
Assault by penetration	17/13-14, 20/03-04	Life
Grievous bodily harm with intent	5/1	Life
Sexual assault on male/female child under 13	17/16, 20/06	14 yrs
Sexual assault on male/female aged 13 or over	17/15, 20/5	10 yrs
Actual bodily harm	8/6	5 yrs
Criminal damage endangering life	57	Life
Arson	56	Life
Aggravated burglary	29	Life
Burglary dwelling	28	14 yrs
Criminal damage <sup>(1)</sup> (Over £5000)	58	10 yrs
Theft from person	39	7 yrs
Theft of vehicle	48	7 yrs
Assault without injury	105A	6 months
Criminal damage (Under £5000)	149(pt)	3 months
<small>(1) Excludes crimes charged under Magistrates' Courts Act 1980 Sec 22.</small>		
<small>Certain crimes triable either way to be tried summarily if value involved is small (&lt; or = £5000).</small>		