

Offences Taken into Consideration (TIC)

Contents

Policy Statement	2
Principles	2
Considering TIC	3
Initial Process	4
Other Suspects – Not Detained at Police Station Under Arrest	6
Offences Admitted Not Recorded.....	6
Post Admission Procedures and Preparing the TIC Form	7
Scrutiny and Audit.....	8
Compensation and Victim Update	9
Record Keeping and Returns.....	9
Additional Information.....	10

Policy Statement

Summary

West Yorkshire Police complies with Authorised Professional Practice (APP), which contains information to assist policing, and has established a local policy procedure to provide clear standards and guidelines.

This policy procedure details how police officers will provide individuals arrested and charged/summonsed with an opportunity to admit further similar offences in order for these offences to be taken into consideration (TIC) at court.

The operational delivery of the TIC policy within West Yorkshire Police is currently referred to as 'Operation Cleanslate'.

The aim of this policy procedure is to provide information on what constitutes a TIC offence, how they can be integrated into the Cleanslate process and how offences are processed into the Criminal Justice System.

Scope

This policy procedure applies to all police officers and staff involved in the investigation of criminal offences.

Principles

General

- Offences 'taken into consideration' (TICs) are matters of a similar nature (but not more serious) to the offence(s) that the individual has been charged or summonsed with.
- The Force will ensure individuals, either in police custody or pending court, having been charged or summonsed with an offence (be they on bail or remanded in custody) are provided with the opportunity to admit further offences.
- The Force has a duty to bring offenders to justice and consider all options available to us.
- The practice of TIC does not offer the individual concerned an 'immunity from prosecution' and each TIC offence admitted must be considered on its own merits against the charge offence.
- It may be that certain offences admitted by way of TIC cannot form part of such a schedule as they are not similar in nature with the charged offence in terms of gravity and the ultimate sentence they may attract.
- All TIC schedules must be approved by the Designated Decision Maker (DDM).

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- The charges need to reflect the overall level of criminality involved and the TIC schedule must not outweigh the level of offences charged.
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Evidential test

- When considering the evidential test for TICs, we need to show there is sufficient evidence to satisfy ourselves that this individual committed this offence.
 - Individuals do not need to compile the same evidential package they would if the case was being presented to CPS. However, they would need to be able to secure that evidence if required.
 - A witness account on the OEL, or details of the CCTV from the store manager on the OEL would be sufficient, with the knowledge this evidence is available should it ever be required.
 - Admission only interviews must not be seen as a barrier to proceeding with a TIC, as long as the admission provides sufficient information to show that offender committed the offence.
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Use of digital voice recorders

- Districts must ensure that sufficient safeguards are in place to allow for the safe and secure storage of all digital voice recordings of interactions with suspects made away from the police station. For example, the visiting of potential crime locations with officers.
 - The process must comply with the Force Records Management policy, MoPI and ensure the information is stored authentically, securely and be managed in an effective and efficient manner.
 - The Data and Information - Data Quality - Collection, Storage and Disposal policy provides more details, but the key principles with regards to voice data recorders used for TICs are:
 - Authentic and has an audit trail for amendments;
 - Accurate and truly reflects what was said;
 - Can maintain integrity of the information;
 - Usable and readily available for access;
 - Data stored on SharePoint if no authorised bespoke system is available with appropriate access controls in place; and
 - Will comply with requirements for retaining, reviewing and disposal of material as per MoPI guidance.
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Considering TIC

When to Consider TIC

- Where a suspect is under arrest and detained at a police station, the investigator must:
 - Ensure that the suspect is given every opportunity to make admissions; and

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- Consider offences other than those which are the subject of the current investigation.
 - The application of this process will be dependent on the:
 - Offence type for which they are detained;
 - Previous offending and TIC history;
 - Suspect's previous dealings with the police; and
 - Ability to build a rapport with the suspect.
 - Offenders flagged on Niche or PNC as below must always be given consideration to obtaining TICs:
 - Integrated Offender Management (IOM);
 - Prolific Priority Offender (PPO);
 - Deter Young Offender (DYO); or
 - Otherwise of significant interest.
 - It is important to guarantee the integrity of the process to avoid any suggestion that TICs were obtained by way of inducement.
 - Bail must not be discussed with the suspect. This is the decision of the custody sergeant and CPS.
 - There is no guarantee that any, or all, of the offences admitted can be introduced into the process by way of TIC. (Note the comments earlier regarding 'similar offences'.)
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When TICs are not appropriate

- It is **not** appropriate to have an offence taken into consideration if:
 - Public interest requires that it should be the subject of a separate trial;
 - The court has no jurisdiction to deal with the offence;
 - It attracts mandatory disqualification or endorsement and the offence for which the defendant is charged does not;
 - It would be likely to attract a larger sentence than the offence they are being sentenced for;
 - It is not of a 'similar nature' to the offence sentenced for (although the Judge may consider if it is in the interest of justice to do so);
 - By virtue of its date, it constitutes a breach of an earlier sentence which would have given the court greater powers of sentence; or
 - The offender would otherwise escape the possibility of an extended sentence had it been charged (e.g. third strike burglary offences as per s111 Power of Criminal Courts (Sentencing) Act 2000).
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Initial Process

Principles

- As part of the initial process at the cell area the suspect must be served with a form CID 32 (Cleanslate form) which they must be encouraged to read and note the contents.

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- This form is available in other commonly spoken languages and sets out the fact that the suspect will be offered the opportunity to admit any further offences.
 - The CID 32 must be completed during an initial approach to a suspect who may be suitable for 'Cleanslate' and who has already been charged or summonsed with an offence.
 - In all cases individuals must seek assistance from their DIU in order to identify potential offences, based on offending behaviour and/or location, in order to assist the interview process.
 - It is important that the information produced by the DIU is exhibited correctly and disclosed as part of the case papers as unused material on the MG6c – Schedule of Non-sensitive Unused material.
 - Where the opportunity of conducting visits to crime locations away from the police station is taken, it is important that information disclosed is recorded contemporaneously in a format that is exhibited and useable as evidence at court (BWV would be best suited to capture this).
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PACE compliant interviews

- At the conclusion of any visit to crime locations where the suspect has indicated their involvement in an offence, there must be a PACE compliant interview (which is documented by way of contemporaneous notes, pocket notebook (PNB) or audio recording).
 - This must detail a clear and reliable admission of the offence(s) by the suspect, which is corroborated with additional verifiable and auditable information connecting the suspect to the crime.
 - At the conclusion of the PACE interview for the original offence, and providing the detainee has admitted the offence, the interviewing officer must:
 - Use Form CID 32 to formally complete the TIC procedure with the detainee on tape. This will normally be a separate interview;
 - Read out the contents of the Form CID 32, ensuring the detainee fully understands the principles of a TIC;
 - Ensure that, if the detainee was legally represented for the initial interview, they must be present or made aware of the process;
 - Ensure the requirement for detainees to be accompanied by an appropriate adult and/or interpreter remains;
 - Caution and remind the detainee of their rights to free and independent legal advice;
 - Arrest the detainee for any further offences they admit at this stage; and
 - Inform the custody officer following the conclusion of the interview.
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Supervisors and line managers

- Supervisors must make themselves aware of any TIC admissions that their officers are obtaining and ensure that:

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- All opportunities for further detections have been maximised;
 - TIC procedures have been followed with integrity;
 - The TIC offences are accurate and appropriate; and
 - Any relevant actions have been taken as a consequence of the TIC offences, including notification to victims, and updating crime recording and intelligence systems.
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Other Suspects – Not Detained at Police Station Under Arrest

General

- The process of obtaining TICs does not solely apply to persons under arrest at police stations. Providing that an admission of guilt or an intention to plead guilty at court can be evidenced, the ability to seek TICs applies equally to:
 - Persons charged and on bail; or
 - On remand awaiting trial or sentence.
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Prison production

- See Prison Productions policy.
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Suspects on court bail

- The process of seeking TICs applies also to suspects who are currently on court bail having been charged with a substantive offence.
 - As such it is totally dependent on where the offender is within the Criminal Justice System.
 - Although early consultation may be necessary with the suspect's legal representative(s) (should they have one), the policy outlined above governing obtaining documentary proof of willingness to plead guilty and to undergo the TIC process, PACE interviews and visits to potential crime locations apply equally to suspects on court bail.
 - Any suspect attending the police station for the purpose of a PACE interview in pursuance of TIC, who is not already lawfully detained, must be done in accordance with the policy in relation to Voluntary Attenders policy.
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Offences Admitted Not Recorded

Niche recorded

- During the course of obtaining TICs it may be that an offence is admitted that has not been recorded as a crime.
- In these cases, National Crime Recording Standards (NCRS) and Home Office Counting Rules (HOCR) guidelines must be followed.

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- If there is no crime recorded then, providing the victim (if they can be located by reasonable steps) confirms that the offence occurred, a crime must be recorded and the outcome (TIC) assigned to it.
 - If the victim does not confirm that the crime occurred, then the crime must not be recorded and the outcome must not be assigned.
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Post Admission Procedures and Preparing the TIC Form

Preparing the TIC schedule

- Once the TIC has been correctly identified and any discrepancies dealt with by way of a further PACE interview, the below must take place:
 - Prepare the TIC schedule (MG18);
 - Allow the suspect to read the completed schedule or have it read to them in the presence of their solicitor, appropriate adult or interpreter as required;
 - When they are satisfied, have them sign the acceptance form and ensure they receive a copy.
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Submission

- When the TIC schedule has been signed it will be necessary to submit the schedule to the DDM with sufficient information in order that the TIC can be validated and authorised.
 - It must include:
 - The TIC schedule with signed acceptance forms;
 - A timetable of events;
 - Copies of:
 - CID 32 recording the intention of the suspect to plead guilty prior to the TIC procedure;
 - Interview/SDN notes identifying admissions (should identify the TIC reference number in the margin);
 - Digital voice recordings; and
 - Any interview tapes.
 - Victim statements (but only if already available).
 - It is important that the CPS are advised of TICs at an early stage and that any potential sentence date is identified as TICs cannot be correctly applied after this point.
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Rejected TICs

- If the offender, having signed the acceptance form, then changes their mind at court and no longer accepts the offences they originally agreed to TIC, it is their right to withdraw the TIC offences.
- These must then be reviewed with the CPS, and consideration given to charging the offender with each of the offences separately. This must be considered on a case-by-case basis.

Scrutiny and Audit

General

- As an investigator it is vital that sufficient scrutiny is applied to any offence admitted by way of TIC.
 - False admissions harm investigations, damage the confidence in the police and adversely affect the victim.
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False admissions

- Motivation to make false admissions can include:
 - Protection of others; or
 - To allow for opportunities for the admissions (TICs) to subsequently be challenged at court.
 - It is essential that the legitimacy of the admission can be verified. Individuals must check that:
 - The suspect was not in custody or elsewhere at the time of the offence;
 - Forensic evidence links to other suspects (unless dealing with as a co-accused);
 - The description of the suspect fits that of the accused (or co-accused);
 - Any of the criteria set out in 'When TICs are Not Appropriate' does not apply; or
 - Any other information that is disclosed about the offence that could only be known by the actual offender.
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Dedicated Decision Maker (DDM)

- Where, through scrutiny, concern is raised as to the validity of any TIC admission, the Dedicated Decision Maker (DDM) (who has overall responsibility for maintaining the integrity of the process) will provide advice.
 - The DDM must ensure that they are satisfied there is sufficient information to show this offender committed this offence. This must include a PACE interview detailing a clear and detailed admission. This may be supported by additional evidence, CCTV/forensic evidence, however an admission only interview may not be a barrier to claim a TIC if the interview is sufficiently detailed.
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NCRS and evidential compliance standards

- When identifying offences, including with the assistance of intelligence products or crime pattern analysis, officers must avoid including TICs on the basis of 'closest fit'.
 - Any discrepancies in terms of MO or property stolen, for example, must first be clarified by way of a PACE interview.
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- It is the responsibility of the crime manager in districts to ensure sufficient processes exist for TIC schedules and files to be robustly checked.
 - The TIC schedule must meet NCRS and evidential compliance standards before the file can be submitted for detection recording.
 - See Offences admitted but not recorded for advice on offences admitted but not recorded on police systems.
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Compensation and Victim Update

- Compensation**
- CPS guidance states that the court is required, pursuant to the Powers of Criminal Courts (Sentencing) Act 2000 section 130(1), to consider the question of compensation in respect of offences being taken into consideration.
 - Consequently, the relevant sections of the MG18 and MG19 must be fully completed.
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- Summary**
- It is the responsibility of the police to notify the outcomes of TICs to victims. This provides districts with an opportunity to increase confidence in the police through contact.
 - Ensure that your TIC has been accepted by a DDM prior to updating the victim.
 - CPS guidance provides further information on court proceedings including situations where TICs are subsequently denied at court (see section on Rejected TICs).
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Record Keeping and Returns

- Principles**
- To ensure districts have the ability to fully audit the effectiveness of TICs they will identify an officer who is responsible for maintaining a record of the following information:
 - Date;
 - Name and details of defendant;
 - Point within the CJS (On remand / charged);
 - Offences numbers by type obtained by that interaction;
 - District TIC relates to;
 - OIC;
 - Supervisor details validating TICs and date completed; and
 - Associated Niche references.
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Additional Information

Compliance

This policy complies with the following legislation, policy and guidance:

- APP Investigation
 - APP Detention and custody
 - APP Prosecution and case management
 - Power of Criminal Courts (Sentencing) Act 2000
 - Data and Information - Data Quality - Collection, Storage and Disposal policy
 - Prison Productions policy
 - Voluntary Attenders policy
 - Paragraph 3(1) of the Schedule 1 to the Crime (Sentences) Act 1997
 - Sentencing Council - A Short Guide – Sentencing for offences taken into consideration (TICs)
 - CPS guidance on taking offences into consideration
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