



NOT PROTECTIVELY MARKED

# WEST MIDLANDS POLICE

## Force Policy Document

**POLICY TITLE:**

Force Policy and Process for the Management, Investigation, and Detection of offences taken into consideration

**POLICY REFERENCE NO:**

**FCID/04**

### Executive Summary

This Policy provides clarification and directs processes around the management, investigation, and detection of offences taken into consideration. This policy has been written in partnership with internal and external stakeholders, and has been widely consulted upon.

*\*\*Any enquiries in relation to this policy should be made directly with that of the policy contact / department shown below.*

### Intended Policy Audience

This Policy is aimed at all Commanders, Operations Managers, Crime Managers, Detective Chief Inspectors, Inspectors, Sergeants and Constables.

<b>Current Version And Effective Date.</b>	<b>Version 4.2</b>	<b>28.02.2013</b>
<b>Business Area Owner</b>	<b>Crime</b>	
<b>Department Responsible</b>	<b>Force CID</b>	
<b>Policy Contact</b>	<b>Detective Chief Inspector Anthony Tagg</b>	
<b>Policy Author</b>	<b>Detective Chief Inspector Anthony Tagg</b>	
<b>Approved By</b>	<b>ACC Cann</b>	
<b>Policy Initial Implementation Date</b>	<b>28.02.2013</b>	
<b>Review Date</b>	<b>01.11.2014</b>	
<b>Protective Marking</b>	<b>Not protectively marked</b>	
<b>Suitable For Publication – Freedom Of Information</b>	<b>Yes</b>	

### Supporting Documents

- Code C of the Codes of Practice to the Police and Criminal Evidence Act (PACE) 1984
- The Home Office Counting Rules for Recorded Crime (2012)
- Criminal Courts Sentencing Act 2000

### Evidence Based Research

Full supporting documentation and evidence of consultation in relation to this policy including that of any version changes for implementation and review, are held with the Force Policy Co-ordinator including that of the authorised original Command Team papers.

### Please Note

PRINTED VERSIONS SHOULD NOT BE RELIED UPON. THE MOST UP TO DATE VERSION OF ANY POLICY OR DIRECTIVE CAN BE FOUND ON THE EQUIP DATABASE ON THE INTRANET.

**Force Diversity Vision Statement and Values**

“Eliminate unlawful discrimination, harassment and victimisation. Advance equality of opportunity and foster good relations by embedding a culture of equality and respect that puts all of our communities, officers and staff at the heart of everything we do. Working together as one we will strive to make a difference to our service delivery by mainstreaming our organisational values”

“All members of the public and communities we serve, all police officers, special constables and police staff members shall receive equal and fair treatment regardless of, age, disability, sex, race, gender reassignment, religion/belief, sexual orientation, marriage/civil partnership and pregnancy/maternity. If you consider this policy could be improved for any of these groups please raise with the author of the policy without delay.”

**CONTENTS**

I. Acronym

1. <a href="#">Foreword by ACC Cann</a>	6
2. <a href="#">Introduction</a>	7
3. <a href="#">Benefits and Significance of TICs</a>	8
4. <a href="#">Home Office policy</a>	9
5. <a href="#">Principles of the Policy</a>	11
6. <a href="#">Governance and Leadership</a>	13
7. <a href="#">Arrest, detection, and interviews</a>	13
8. <a href="#">Introduction of Standardised forms</a>	13
9. <a href="#">The Process</a>	14
10. <a href="#">Action on arrival at custody station</a>	14
11. <a href="#">Interview of suspects</a>	15
12. <a href="#">All interviews in relation to additional offences</a>	16
13. <a href="#">Use of contemporaneous notes</a>	17
14. <a href="#">Escort of suspect to identify offence locations</a>	18
15. <a href="#">Recorded interview after completion of contemporaneous notes</a>	19
16. <a href="#">Prison Production Order</a>	20
17. <a href="#">Documentation</a>	20
18. <a href="#">Additional principles</a>	20
19. <a href="#">Post Sentence Interviews</a>	22
20. <a href="#">File process following arrest, interview and charge</a>	22
21. <a href="#">Intelligence Management System</a>	23
22. <a href="#">Contact with victim</a>	23
23. <a href="#">Accuracy of data (WC201)</a>	24

**NOT PROTECTIVELY MARKED**

24. <a href="#">Supervision of offences taken into consideration</a>	24
25. <a href="#">Claiming a detection</a>	25
26. <a href="#">End of case review</a>	25
27. <a href="#">CPS Decision making and appeal process</a>	25
28. <a href="#">The Public Interest Question</a>	25
29. <a href="#">Some common public interest factors tending in favour of prosecution</a>	26
30. <a href="#">Some common public interest factors tending against prosecution</a>	26
31. <a href="#">Form MG18/18a (TIC Form): Dissemination</a>	27
32. <a href="#">Appendix A</a>	30
33. <a href="#">Equality Impact Assessment (EQIA)</a>	34
34. <a href="#">Human Rights</a>	34
35. <a href="#">Freedom of Information (FOI)</a>	34
36. <a href="#">Training</a>	34
37. <a href="#">Promotion / Distribution &amp; Marketing</a>	35
38. <a href="#">Review</a>	35
39. <a href="#">Version History</a>	36

I. Acronyms

<b>ACC</b>	Assistant Chief Constable
<b>ACPO</b>	Association of Chief Police Officers
<b>ASBO</b>	Anti-Social Behaviour Order
<b>CPS</b>	Crown Prosecution Service
<b>CRASBO</b>	Criminal Anti-Social Behaviour Order
<b>DCI</b>	Detective Chief Inspector
<b>DDM</b>	Designated Decision Maker
<b>DNA</b>	Deoxyribonucleic acid
<b>EWCA</b>	England and Wales Court of Appeal
<b>EQIA</b>	Equality Impact Assessment
<b>FSI</b>	Forensic Scene Investigator
<b>HO</b>	Home Office
<b>HORC</b>	Home Office Counting Rules
<b>IMS</b>	Intelligence Management System
<b>LPU</b>	Local Policing Unit
<b>NFA</b>	No Further Action
<b>NIISG</b>	National Investigative Interviewing Strategic Steering Group
<b>OBJT</b>	Offences Brought To Justice
<b>OIC</b>	Officer In the Case
<b>PACE</b>	Police and Criminal Evidence Act 1984
<b>PPU</b>	Public Protection Unit
<b>SOA</b>	Sexual Offences Act 2003
<b>TIC</b>	Offences Taken Into Consideration

## 1. FOREWORD BY ACC CANN

1.1 The process of solving and resolving crime, particularly acquisitive crime is at the heart of how we serve our communities and protect them from harm. We have a duty to the victims of crime to proportionately and effectively investigate all crimes, and where there is evidence to identify a suspect, to maximise every opportunity to achieve positive outcomes, and bring offenders to justice.

1.2 Offences taken into consideration (TIC) can play an important part in the investigative process. This policy will give a clear and positive direction on how all of our officers and staff should manage offenders who have admitted, or who are seeking to admit, further offences.

1.3 All elements of the investigative process and all of our strategies for effectively managing offenders whilst in custody will be implemented in line with our organisational values. We will work with our criminal justice partners to ensure that victims of crime receive an excellent service.

## 2. INTRODUCTION

2.1 This order replaces previous Force Policy in respect of offences Taken into Consideration (TIC) contained within Part 1 Order 51/2005.

2.2 This policy is intended to provide clear and unambiguous direction for all officers and staff who are engaged in the investigation of all criminal offences (but with a focus upon Serious Acquisitive Crime). This policy will reflect the vision and values of West Midlands Police and ensure that all investigations are conducted with the utmost integrity.

2.3 This document will also set out the organisational approach to professionalising the process of maximising every investigative opportunity to solving and resolving crimes, in order to serve our communities and protect them from harm.

2.4 Additional guidance for investigating officers will be available; this will provide a 'practitioner's guide' to delivering quality investigations. The focus will be upon planning and preparation for the arrest and interview stages, and will ensure that the policy and process is translated into the suspect strategy.

2.5 The processes outlined within this document will be adopted for all investigations where:

- Repeat offending by the suspect is likely.
- Serious Acquisitive Crime offences are involved.
- The suspect(s) admit(s) further offences.
- The CPS charging decision directs that offences are suitable for TIC.

2.6 The revisions contained within this policy can be summarised as follows:

- To reduce the level of bureaucracy that the previous policy required.
- To provide a simple, effective, and transparent policy that will give officers and staff the confidence to professionally and thoroughly investigate criminal offences, and maximise every opportunity to achieve positive outcomes for victims of crime.
- To formalise and embed the organisational approach to the subject of TIC offences, and ensure that officers and staff from all force departments and Local Policing Units (LPU) fully understand the role that they have to play within it.
- To clearly set out the joint agency protocols (Police, CPS, Courts) that deal with the management of TICs through the criminal justice process; this will include the CPS decision making process for charging, and in particular the 'Public Interest' question that has arisen regarding admissions to other offences by persons subject to post sentence interviews.
- To clarify that 'Simple Cautions' and 'Community Resolutions' will not be administered to suspects who admit to offences 'post sentence' where CPS have decided that a prosecution will not take place.

### **3. BENEFITS AND SIGNIFICANCE OF TICS**

3.1 The below text has been taken from the Crown Prosecution Internet website; it was updated in October 2010:

[Click here to view the full text](#)

It presents the significant advantages to the Criminal Justice System that the effective use of offences taken into consideration:

*3.2 Benefits include: the court has a fuller and more accurate picture of the offending and is able to give a longer sentence than it would if it were dealing only with the substantive charge; the defendant receives a reduced overall sentence, possibly*

## NOT PROTECTIVELY MARKED

*tailored sentencing and rehabilitative programmes and is able to clear the slate to avoid the risk of subsequent prosecution for those offences; the victim has an opportunity to claim compensation in respect of an offence admitted by the defendant, detected and acknowledged by the criminal justice system; the police gain valuable intelligence, increase clear up rates, record a fuller picture of offending for possible use in future cases or to support applications for CR/ASBOs or other restrictive orders; the prosecution has a fuller and more accurate picture of the offenders criminal history when considering the public interest test, bail decisions, bad character, dangerousness etc; resources are used efficiently; and the public's confidence in the criminal justice system is improved.*

### 3.2 Significance

*3.2.1 When assessing the significance of offences being taken into consideration, the court is likely to attach weight to the demonstrable fact that the offender has assisted the police (particularly if they are enabled to clear up offences which might not otherwise have been brought to justice), but the way in which the court deals with them should depend on context; in some cases, the offences may add little or nothing to the sentence which the court would otherwise impose, whereas in other cases, they may aggravate the sentence and lead to a substantial increase (e.g. where they show a pattern of criminal activity involving careful planning or a deliberate rather than casual involvement in crime, where they show an offence or offences committed on bail, or where they show a return to crime immediately after an offender has been before a court and given a chance to redeem himself, which he has immediately rejected). R v Miles [2006] EWCA Crim 256.*

## 4. HOME OFFICE POLICY

4.1 There is no statutory basis for the practice of taking offences into consideration, but a useful reference from Archbold (2006: 5-107) explains the position:

“A defendant may ask a court passing sentence to take into consideration other offences of a similar nature in accordance with a well established and recognised practice”

4.2 [The Home Office Counting Rules for Recorded Crime \(2012\)](#) underpin the use of TICs as a ‘Method of Detection’ (Section H); the criteria being:

(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.*

## NOT PROTECTIVELY MARKED

### 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 information connecting the suspect to the crime.*

### Clarification

*The offences taken into consideration must be similar to, 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 an additional information connecting the person to the crime. For TICs 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 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.*

4.3 In addition it is stated that an offence may be accepted as a TIC by a court when deciding on sentence and compensation awards. It is seen as an alternative to

**NOT PROTECTIVELY MARKED**

charging an offender with a substantial number of offences; the offender must admit their guilt before the court can take the offence(s) into consideration.

4.4 The Association of Chief Police Officer (ACPO) have published a document titled, "Position Statement: Interviewing Suspects about Offences Taken into Consideration". This has been produced by the National Investigative Interviewing Strategic Steering Group (NIISG), and builds upon the recommendations of a further report, "Review of TIC Practices across Criminal Justice Areas" published by the Office for Criminal Justice Reform (2005). The focus of these publications being that the effective and ethical use of TICs is essential to the professional investigation of criminal offences, and that Police Forces and their criminal justice partners must have clear policies and strategies for ensuring that they deliver the best possible service in this area.

4.5 The approach developed in this policy involves the use of pre-printed documents to ensure that the suspect in each case, and their legal representative are fully aware of the position of West Midlands Police in relation to how our investigations will be managed, and how we will seek to encourage offenders to admit offences they have been responsible for, in effect 'cleaning their slate' with the police and courts prior to being sentenced. This policy will fully affirm the use of notices which will be issued to suspects.

## **5. PRINCIPLES OF THE POLICY**

5.1 Investigating and supervising officers must ensure that the integrity and transparency of decisions made within the principles of this policy are maintained at all times. This is linked to the ability to defend such processes when they are subject to examination by the courts or internal audit processes.

5.2 The object of the court taking into consideration 'outstanding offences' is to prevent as far as the interests of justice permits, the re-arrest of a person after the expiration of a sentence. Therefore, the focus of the TIC investigation and detection process should be where circumstances allow, at the pre-charge stage and not post sentence. Rendering such offences as charges or offences to be taken into consideration where an offender is already serving a custodial sentence will not occur without prior consent of CPS.

5.3 Offences taken into consideration are acknowledged as an important outcome in terms of Offences Brought to Justice (OBTJ); they should therefore be regarded as

**NOT PROTECTIVELY MARKED**

legitimate 'just outcomes' in the same way as those offences dealt with by way of charge or simple caution.

5.4 All decisions regarding offences to be taken into consideration will be made through the established CPS charging process; the CPS Lawyer will determine the nature and extent of charges in order to appropriately reflect the level of offending, and ensure that the court has adequate sentencing powers. The formulation of the MG18 will form part of the pre-charge advice discussion.

5.5 The reviewing CPS Lawyer must be made aware of any impact of powers conferred by the [Criminal Courts Sentencing Act 2000](#) (Sections 111(2) and (4) of the Powers of Criminal Courts (Sentencing) Act 2000).

5.6 The offence must not have exceeded its statutory time limits at the time the offence was admitted by the offender i.e. summary only offences.

5.7 Any offence to be taken into consideration must be of a similar offence (and not more serious) to the offence(s) charge or summonsed i.e.

- a) A theft may be taken into consideration if burglary is charged as the burglary contains elements of theft but not vice versa.
- b) Similarly, offences of violence cannot be taken into consideration alongside charges, which merely involve dishonesty; a robbery offence could not be taken into consideration where theft offences are charged, but theft could be taken into consideration where Robbery was charged.

5.8 Interviewing officers must look for corroborative evidence in support of any offences admitted by an offender. For example, recovering stolen property or its proceeds, and obtaining information that only the offender would be expected to know about the offence(s) in question. The level of evidence required must reach that of "additional verifiable information connecting the suspect to the crime" (HOCR: 2012).

5.9 It should be remembered that the TIC process does not remove the responsibility from the Investigating Officer to research crimes with similar modus operandi location prior to interview for which the detained person is a suspect and can be arrested.

5.10 The information and evidence identified to link the suspect to the offences to be taken into consideration must be reflected in the MG5 case summary (or MG20 if

**NOT PROTECTIVELY MARKED**

appropriate), and within the electronic investigation log or on the WC202 (please see the Process section below).

5.11 Effective engagement and communication between investigators and Forensic Scene Investigators (FSI) is a critically important element of an effective criminal investigation and must be considered as essential practice. Investigators must ensure that they have a detailed working knowledge of the results of the forensic outcomes of a crime scene investigation, and are responsible for securing the relevant evidence that links the suspect to the crime prior to an arrest or interview, or where this is impossible whilst the suspect is in custody for that offence.

5.12 It should be noted that West Midlands Police do not undertake “write offs” after conviction; any enquiries from a suspect or solicitor or any suggestion that a person is willing to engage in such a process must be firmly responded to in order to make clear that this is the case. Any additional offences admitted by a person in custody at any time, will always be considered by the Police and CPS and a CPS charging decision taken as to the appropriate disposal method i.e. charge, caution, reprimand/final warning, TIC, NFA.

## **6. GOVERNANCE AND LEADERSHIP**

6.1 The HOCR make reference to the role of Designated Decision Maker (DDM); this role will be carried out by officers of the rank of Detective Chief Inspector, who have responsibility for the crime types involved, and line management for the investigative teams involved; this would be the Crime DCI on LPU, and DCI for the specific area of business within PPU and Force CID. The DDM has overarching responsibility to ensure that TIC’s are claimed in line with this policy and that an audit system is in place to ensure the integrity of the process of claiming TIC’s is maintained.

6.2 The overarching responsibility for ensuring that the policy and processes outlined within this document are delivered locally will also be the responsibility of the Detective Chief Inspector, and the role of ‘TIC Champion’ will also be assigned to that post. It will be necessary for each LPU and central department (and smaller teams within) to set out clearly the local/team strategy for the delivery of performance in this significantly important area of business.

**NOT PROTECTIVELY MARKED**

6.3 It is the responsibility of first line supervisors to ensure that the policy and procedures in this document are followed correctly by officers under their leadership and management.

## **7. ARREST, DETECTION, AND INTERVIEWS**

7.1 This policy will apply to all suspect interviews and is consistent with the following principles:

- Improve the efficiency and effectiveness of the Criminal Justice System
- Hold offenders properly to account for their actions
- Increase public satisfaction and confidence
- Increase the number of Offences Brought to Justice

## **8. INTRODUCTION OF STANDARDISED FORMS**

8.1 The following forms will be incorporated into the custody and suspect management processes:

- Notice of rights and entitlements with TIC section included (WC 338)
- Form A: Notice to suspect to be given with WC 338 (Appendix A)
- Form B: Notice to Legal Representatives and Appropriate Adults re TICs (Appendix A)
- Form C: Notice to suspect (at conclusion of the interview) re TICs (Appendix A)

8.2 Custody Officers will be responsible for ensuring that all suspects for acquisitive crime are served with the Form A:

8.3 Investigating/Interviewing Officers will be responsible for serving Form B upon legal representatives and appropriate adults during the disclosure process; they must also serve Form C upon the suspect at the conclusion of the interview.

## **9. THE PROCESS**

9.1 Police Officers conducting investigations and managing suspects whilst in custody for criminal offences must be aware of their responsibilities in relation to the [Police and Criminal Evidence Act \(PACE\)](#) in relation to the admissibility of evidence (Section 76 and 78), and the potential damage to the investigation that could be caused by 'inducements' made to a suspect that result in admissions to criminal offences.

## **NOT PROTECTIVELY MARKED**

9.2 It is important to emphasise that there is not a definitive list of what could be considered to be an 'inducement', but the following are examples:

- Offering bail in return for admissions
- Promises that all admissions will be accepted as TICs
- The provision of visits to family or friends
- The provision of food or other refreshments (other than those provided in the course of their detention by the custody officer)
- Any other favourable treatment that could be highlighted by a defence solicitor as being the reason that a suspect admitted an offence when they would otherwise not have done so

## **10. ACTION ON ARRIVAL AT CUSTODY STATION**

10.1 Prior to the collection of a suspect, supervisors should consider the selection and deployment of the right personnel to collect, transport and return the suspect.

10.2 'Form A' will also be given to the suspect by the Custody Officer at the point where the Notice of Rights and Entitlements are served.

10.3 During disclosure, the investigating officer will inform any appointed legal representative that the above notice has been given; In addition, 'Form B' will be given to the legal representative/appropriate adult.

## **11. INTERVIEW OF SUSPECTS**

11.1 All suspects must be subject to tape recorded interview under caution in accordance with PACE, including those with a person at HM Prison (on remand or following conviction); if this is impossible guidance should be sought from the appropriate DCI who advise on the necessary course of action. There should be no difference in the quality, detail, or preparation for an interview at an HM Prison and one on police premises.

11.2 When a prisoner is taken on any journey from a police station to identify locations or stolen property a contemporaneous record of that journey will be maintained using form MG15. Also see paragraph 5.16. Prisoners engaged in such journeys will always be under secure conditions and a risk assessment will have been completed prior to their leaving police premises.

**NOT PROTECTIVELY MARKED**

11.3 Following any such journey the prisoner should be returned to the designated police station where an audio-recorded interview will take place; this will specifically cover all of the detail contained within the written record.

11.4 When a prisoner produces a written list of offences, compiled in prison, or elsewhere before he is interviewed by the police it will be seized as an exhibit and will help form the basis for the interview(s).

11.5 At the conclusion of the interview, the suspect should be given the opportunity to admit further offences committed for consideration of charge or TIC. The question of which offences will be charged and which will be taken into consideration will not be discussed with the offender. Such discussions are likely to render any statement or admission inadmissible; 'Form C' will then be served upon the suspect.

11.6 Once a suspect has admitted further offences it is necessary to arrest them for those offences if a power exists ([S. 31 PACE refers](#)). The interviewing officer should also take the opportunity to remind the suspect of their rights at this point.

11.7 On conclusion of the interview, the custody officer must be updated as to the progress of the investigation and informed of any further offences that the suspect has disclosed. This must be done as soon as practicable. The Custody Officer may then authorise further detention whilst these matters are investigated. The Custody Officer should note the fact that the suspect has made a disclosure relating to further offences within the body of the custody record.

## **12. ALL INTERVIEWS IN RELATION TO ADDITIONAL OFFENCES**

12.1 Interviewing Officers must ensure that the quality of suspect interview (for additional offences that may be taken into consideration) must be of an equally high standard as those for substantive offences; such interviews officers are seeking to elicit as much information as possible regarding the:

- Date of offence
- Time
- Location
- Details of victim, if known
- Method - for example tools used, method of entry etc
- Property stolen, places of disposal and associates
- Any other distinguishing features only likely to be known to the victim or offender

## **NOT PROTECTIVELY MARKED**

Officers might consider that at a minimum the offender should be able to articulate the location of the offence, method used to facilitate the offence and what property was stolen.

12.2 Where the prisoner is not able to provide full details of particular offences further questions should be put to him or her during the subsequent audio interview in order to seek to meet the threshold of 'additional verifiable information'.

12.3 The suspect will not be allowed to examine crime reports, copies of crime reports or any list of offences compiled from data held on Force computer systems; failure to comply with this direction could lead to misconduct proceedings (or criminal offences under the Data Protection Act).

12.4 Interviewing officers must observe 'good practice' for all suspect interviews, and must use 'open' questions to elicit information from suspects; evidence of the excessive use of 'closed' or 'leading' questions will potentially undermine the integrity of the evidence obtained within the interview, and jeopardise the investigation.

## **13. USE OF CONTEMPORANEOUS NOTES**

13.1 Form MG15 will always be used where there is a requirement for contemporaneous notes; this will usually be if the suspect is prepared to identify the location of offences, or stolen property. The recording of contemporaneous notes must be in accordance with PACE; the record will contain details of all persons present and the police vehicle used for the journey (where applicable). The record will include the start and finish time of the journey. Prior to asking any questions the contemporaneous record will include:

- An introduction explaining the purpose and process of the journey
- The caution, written out in full, and signed by the prisoner
- A reminder about legal advice, including the reason if declined, signed by the prisoner
- A 'TIC warning', signed by the prisoner, in the following terms 'I must warn you that the Crown Prosecution Service will make the decision as to whether you are charged with any, some or all of the offences you admit now whether they are put before the court for you to have them taken into consideration. Do you understand?'

13.2 The contemporaneous record should include details of the journey undertaken, places visited and the questions asked and answers given.

**NOT PROTECTIVELY MARKED**

13.3 After the final question has been answered an acknowledgement should be sought that the offender wishes the offences he or she has admitted to be taken into consideration at court.

13.4 The interviewing officer should state to the offender and record on the notes:

“During this interview you have admitted a number of offences. If given the opportunity would you be willing to have one or more of these offences taken into consideration before a Court?”

13.5 If the offender agrees the interviewing officer should then state, “I must warn you; however, that it is the decision of the Crown Prosecution Service as to whether any of the offences you have admitted are suitable before you can have them taken into consideration. If any are not then they may be subject to further charge. Do you understand?”

13.6 At the immediate conclusion of the interview the prisoner should:

- Sign after the final entry on the last page
- Read the notes and indicate any inaccuracies
- Initial any mistakes
- Sign at the bottom of each page
- Write and sign the following caption ‘I have read the above record and I have been able to correct or add anything I wish. I have answered the questions of my own free will.’

13.7 All police officers will sign the contemporaneous record on each page. Any other person present, such as a legal representative or appropriate adult, will be invited to do likewise; any refusal to sign must be recorded

13.8 If a prisoner is unable to read or write the officer will indicate this on the record and read the notes to them, after inviting him or her to correct or add anything they wish. The police officer will suitably endorse the record and then invite the prisoner to sign the notes or make their mark.

13.9 The time when the interview is concluded will be recorded form MG15.

**NOT PROTECTIVELY MARKED**

13.10 No copies of any contemporaneous record will be made before they are complete and signed by all relevant persons.

**14. ESCORT OF SUSPECT TO IDENTIFY OFFENCE LOCATIONS**

14.1 All requirements for the removal of a suspect from a custody station (Police detection/HO production from prison) must be discussed in detail with the Custody Officer, and appropriate arrangements for security put in place. It is essential that all elements of this document are observed during this process. A risk assessment must be completed prior to the suspect leaving police premises.

14.1 During the journey the prisoner will not be allowed to visit anywhere other than for the purpose of identifying crime locations or recovering stolen property or evidence, unless the prisoner is in need of urgent medical assistance.

14.2 The provision of refreshments should always take place at police premises in line with the direction of the custody officer. Under no circumstances should the escorting officers permit the suspect to:

- Have any visits from friends or family
- Receive any parcels or gifts whatsoever from a 3<sup>rd</sup> party
- Make any telephone call (other than under the supervision of the custody officer) by any mobile telephone or landline
- Purchase or receive any alcohol, cigarettes, or other items (including sweets or fast-food)
- Visits to or entry of any licensed premises (other than to indicate from outside the location of offences)

14.4 In exceptional circumstances, and with the agreement of the custody officer, the provision of food away from police premises may be permissible. Should this need to be done then it must be recorded on the MG15, including a full rationale, and supported by the production of receipts. Upon return to the custody station the officers will ensure that any record of detention is appropriately updated.

14.5 The prisoner will remain in the police vehicle under escort at all times to minimise opportunities for escape; the use of toilet facilities will take place at the nearest police premises.

## **15. RECORDED INTERVIEW AFTER COMPLETION OF CONTEMPORANEOUS NOTES**

15.1 Following any journey to identify locations or recover stolen property an audio recorded interview will take place. The interview will be conducted in accordance with the [Police and Criminal Evidence Act 1984](#) and the relevant Codes of Practice.

15.2 The audio recorded interview should take place as soon as is reasonably practicable after the conclusion of any journey outside the police station and should always be completed before the prisoner is returned to HM Prison, charged and put before a Court or bailed for any offence. At the beginning of this interview the contemporaneous record made during the journey will be put to the prisoner. Where the prisoner has not been able to provide full details of particular offences further questions should be put to him or her during this interview regarding those, or any other offences.

## **16. PRISON PRODUCTION ORDER**

16.1 Where a prisoner is subject to a Prison Production Order at a police station reference must be made to Part 1 Order [54/2004](#).

## **17. DOCUMENTATION**

17.1 A list of offences, which are likely to be taken into consideration, should be prepared on form MG18/18a. The list must be constructed in order of admissions and to illustrate or make clear the serious nature of the offences listed. Offences should not be listed in a way that does not allow serious offences to be identified. For example if a robbery involves the use of a weapon or violence, or results in injury then this should be indicated next to the offence on form MG18/18a. The main file reference number must also be endorsed on the front page of this form.

17.2 The electronic investigation log or the WC202 will also be completed explaining clearly and concisely the evidence available that shows the offender is responsible for each and every offence. For example, a simple statement indicating "admission" will not suffice. There must be sufficient detail given to show the nature of the evidence. These will be cross-referenced to every relevant crime reference number.

## 18. ADDITIONAL PRINCIPLES

18.1 Offence(s) which are committed whilst the offender is charged and on police/court bail are normally inappropriate to be taken into consideration. These types of offences should normally be subjects of charge. However, advice of CPS should be sought before any such offence is proposed as TICs.

18.2 If the offender admits an offence in another force area, consent of the force concerned must be obtained before the offence can be included on form MG18/18a.

18.3 With regards to the ratio of charges to other offences taken into consideration, each case must be judged on its own merits by the CPS Lawyer. However, as a general rule where there are numerous offences a minimum of three (appropriate) charges should be anticipated, and these should reflect the principle of 'first, worst, and last'.

18.4 Judges and Magistrates have the power to sentence offenders on the basis of all the information before them, whether or not it forms part of the indictment. Accordingly, they may adjust the sentence on the basis of the list of offences taken into consideration and so offences taken into consideration must reflect the nature and seriousness of the offending.

18.5 Whilst a failure to comply with Home Office Counting Rules (HOCR) and this policy may not necessarily prevent a court from taking an offence into consideration, it is certainly true that non-compliance is likely to result in the offence not being counted as detection. An example of this could be a shoplifter who recalls generally numerous offences committed by him/her over a period of time but is unable to be specific with regards to time, date and location and/or property stolen. There may be insufficient details to record/claim a detection but a matter for the court when passing sentence if the offender wishes them to be taken into consideration.

18.6 Sufficient copies of completed MG 18/18a will be supplied to the accused or defence and Crown Prosecutor well in advance of the date of the hearing.

18.7 It is the responsibility of the officer seeking any CPS advice to properly convey information to them regarding aggravating factors which relate to any offences so that

## NOT PROTECTIVELY MARKED

proper advice can be given regarding charges or otherwise. Aggravating factors include would include:

- The nature of the property stolen (high value)
- Racial/homophobic related offences
- Where the victim is vulnerable
- Where violence or weapon used
- Involves any sexual motive by the offender
- Where a particular feature of sentencing is dependant upon an offence being put formally before the court by way of charge for example sex offenders register or
- To obtain disqualification from driving
- Where an offence is subject to the Powers of Criminal Courts Sentencing Act 2000

18.8 The investigating officer must take appropriate steps to ensure as far as possible that the suspect was able to have committed the offence they have admitted; where repeat offenders are involved it will be necessary to highlight periods of detention (prison or police custody) so that it is clear the suspect was at liberty at the time the admitted offence(s) were committed.

### **19. POST SENTENCE INTERVIEWS**

19.1 Where a person who is serving a custodial sentence formally admits other offences in interview then the advice of CPS will be sought as to whether charges and/or TIC's should be preferred. The file to CPS will explain clearly and concisely the evidence available that shows the offender is responsible for each and every offence. For example, a simple statement indicating "admission" will not suffice. There must be sufficient detail given to show the nature of the evidence.

### **20. FILE PROCESS FOLLOWING ARREST, INTERVIEW AND CHARGE**

20.1 Court/CPS file: The file will be completed in accordance with current force policy; the completed MG18 forms will be submitted to CPS in line with the charging decision.

20.2 Police file (authorisation for TICs to be registered as 'Detected' or 'Solved': The file will be completed by the Investigating Officer as soon as possible, and will consist of the following:

- WC 200 Crime report (the 'main file'; this will be the crime report that the OIC will cross reference all other crimes to. This should be a 'charged offence' and usually will be the crime that commenced the investigation).

### NOT PROTECTIVELY MARKED

- The electronic investigation log or the WC202 for the 'main file' crime report; this will provide a detailed outline of the investigation and how the suspect was identified, arrested, and charged. This should then provide a detailed outline of further charges and all offences that have been admitted, and which the suspect wishes to be taken into consideration; any additional evidence against the suspect for each offence should be outlined in detail, along with any recovered property.
- WC200/202/electronic investigation log relating to other offences to be taken into consideration to be attached to the main file crime report and presented in the order they appear on TIC schedule (the WC201 forms for the TIC offences should be completed, but not submitted until the DCI has authorised the submission (in line with force policy)).
- A copy of the MG5 from the court file (This should also be uploaded to Crimescan and indexed to the main file number).
- Form MG15 – SDN of interview with relevant admissions transcribed in full. If relevant a copy of the contemporaneous notes taken; the investigating officer will highlight each admission and cross reference it to the crime number of the offence that it relates to.
- Form MG 18/18a – schedule of the offence(s) to be taken into consideration signed by the offender.
- Prison Production form (Copy) where appropriate.
- CPS correspondence (where applicable).

20.3 All files containing TICs, prior to submission to CPS, should be quality assured by the OIC's first line supervisor to ensure they are completed correctly and that this policy has been adhered to.

## 21. INTELLIGENCE MANAGEMENT SYSTEM

21.1 Following interview and disposal process a full IMS entry will be made detailing the circumstances of the arrest, interview, and further offences suspected, interviewed, denied or admitted. This entry should give a detailed account of the offences that the suspect was interviewed regarding but denied, including alibis given. This is particularly important in relation to alibis responding to forensic packages. **IT IS VITAL THAT THE FULL INTELLIGENCE PICTURE IS COMMITTED TO IMS TO ASSIST FUTURE INVESTIGATIONS.**

## **22. CONTACT WITH VICTIM**

22.1 Following an arrest for an offence, and in line with West Midlands Police contact counts policy, the officer in the case will be responsible for making contact with the victim. This is an opportunity to give the victim an explanation of the process and should be done personally, via telephone or visit. A victim contact plan must be agreed and entered onto Crimes 5.

22.2 The victim must be notified that their details will be placed on the MG19 (and MG6) relating to the application for compensation, which will be considered at sentencing. They must also be told that this does not preclude them from seeking recompense through the civil litigation process.

22.3 The victim should be informed that if the offender does not accept the TIC at court, it is the policy of West Midlands Police to rigorously pursue the investigation of that crime through the courts and that a statement may be required in the future.

22.4 The victim will be offered the opportunity to complete a Victim Personal Statement for inclusion in the case file; officers should anticipate that victims will very often wish to know the motivation of the offender for choosing their home/property, and should be prepared to provide as much detail as possible to ensure that the victim is reassured. The impact upon the victim of serious acquisitive crime should not be underestimated, and this aspect of the investigation must be professional. The offer to the victim and any subsequent statement must be recorded on Crimes 5.

22.5 The victim will be offered the opportunity to speak with Victim Support Service and told that their details will be automatically referred to them.

## **23. ACCURACY OF DATA (WC201)**

23.1 It is crucial that the data being entered onto Crimes in relation to detections/TICs is as accurate as possible so that force performance in relation to forensic packages can be fully understood. Officers and staff must complete the detection factor in the 'Detections Section' of the Crimes Update Portal for the Primary Forensic Factors i.e. 12-DNA, 13-Fingerprints, and 14-Other.

## **24. SUPERVISION OF OFFENCES TAKEN INTO CONSIDERATION**

24.1 The documents outlined above will then be submitted by the officer in charge of the case to their Detective Inspector who will review the file and satisfy themselves that the relevant conditions of this policy have been met. The file will then be forwarded to a Detective Chief Inspector (DCI); the DCI will carry out the role described within the HO CR as the 'Designated Decision Maker' (DDM). This officer should have responsibility for the crime types involved to make a final decision on the suitability of the offences involved to be recorded as TICs on the crimes system, and to be formally recorded as 'Detected' under HO CR. The DCI will endorse the police copy of the MG18/18A to the effect.

24.2 DCI's will be responsible for ensuring that there are arrangements in place with an appropriate deputy to manage TIC files in the event of their absence or unavailability.

## **25. CLAIMING A DETECTION**

25.1 Once the DCI has authorised the submission of the TIC offences they will be forwarded to the appropriate Crime Services Team for inclusion on to the CRIMES system as 'solved' ('detected' under HO CR).

25.2 CRIMES will then be updated to show that the offence has been detected by way of TIC; it is at this point the offence will be counted as solved.

## **26. END OF CASE REVIEW**

26.1 Departmental and LPU DCI's must ensure that end of case reviews are carried out on all cases which involve offences to be taken into consideration. This will be done as soon as possible after the case has been dealt with at court to determine if all offences intended to be taken into consideration were actually presented to the court for consideration, and that defendants actually accepted them at court.

26.2 Any of the offences were not taken into consideration (including any preferred charges being subject to discontinuance). Where discontinuance of charge(s) or non-acceptance of TICs occurs the DCI will review the case on the basis of determining the reasons for discontinuance and/or non- acceptance of TICs and whether any further charges should follow. DCI's will consult with CPS when considering such issues.

## **27. CPS DECISION MAKING AND APPEAL PROCESS**

27.1 CPS lawyers/Prosecutors will be governed by the 'Code for Crown Prosecutors'. This code requires the Crown Prosecutor to be satisfied that there is enough evidence to provide a realistic prospect of conviction and that it is in the public interest to commence a prosecution.

27.2 The following section has been taken from the Code for Crown prosecutors (2010); the full document is available from the [CPS website](#):

## **28. THE PUBLIC INTEREST QUESTION**

28.1 The Crown Prosecution Service (CPS) will primarily consider the Public Interest Question. The Public Interest stage is further discussed by CPS by clicking [here](#).

## **29. SOME COMMON PUBLIC INTEREST FACTORS TENDING IN FAVOUR OF PROSECUTION**

29.1 Public interest factors favouring prosecution can be found on the CPS website by clicking [here](#)

## **30. SOME COMMON PUBLIC INTEREST FACTORS TENDING AGAINST PROSECUTION**

30.1 Public interest factors tending against prosecution can be found on the CPS website by clicking [here](#).

30.2 \*Mr Mark Paul (CPS West Midlands) has confirmed that a "nominal sentence" would not include a 'Concurrent' sentence, i.e. that the fact a suspect is likely to receive a concurrent sentence should not be used as a basis for rejecting a prosecution on the basis of "Not in the public Interest".

30.3 Consideration will be given to the sentence/term of imprisonment imposed on the defendant, and whether it is likely to result in an increase in sentence if additional charges are preferred.

30.4 Notwithstanding whether a conviction is likely to result in an increased sentence consideration will be given to prosecute if a conviction will result in a confiscation, other order, or will have an effect on future mandatory sentencing provisions. For example, it might be that a conviction would trigger the lifestyle provisions of the Proceeds of Crime Act 2002; examples of other orders (not an exhaustive list) would be:

## NOT PROTECTIVELY MARKED

- Restraining orders
- Banning orders under the S.O.A. 2003
- Anti Social Behaviour Orders
- Offences leading to inclusion on the Sexual Offences register
- Disqualification from driving

30.5 Consideration to prosecute will also be given if a conviction relates to a specific type of sentence which by its nature should properly be recorded as such. For example assaults upon teachers or persons performing a public duty, offences motivated by discrimination, or where the prosecution will have a significant positive impact on maintaining public confidence.

30.6 Where an offender declines to have offences taken into consideration before a court, the following procedure will be adopted. Where it is deemed that there is insufficient evidence to support the charge, which has been discontinued by CPS, and then the related detection will be deleted from CRIMES.

30.7 There is a formal process for the appeal of CPS charging decisions; it is not intended to outline this in full in this document, but investigating officers must be aware of the requirement to inform an officer of the rank of Inspector where they believe that there is a need to challenge a CPD decision. The Inspector must then inform the original lawyer that an appeal is to be made, and in turn a senior CPS lawyer will manage the appeal process; an appeal must be made formally.

30.8 All decisions as to any course of action, whether relevant to discontinued charges or offences not taken into consideration before a court, will be recorded on the case file on the electronic investigation log or on form WC202 by the LPU Crime Manager and entered on to CRIMESCAN.

30.9 Force departments and LPU's will need to ensure that they have processes in place at local level (Local Criminal Justice Board) that identify and manage issues or barriers relating to the TIC process.

30.10 Where offences have been authorised under the CPS charging decision, and the DCI concerned has authorised the crimes to be recorded as solved ('detected' in accordance with HOCR). The DCI concerned will ensure that the OIC contacts the victim(s) of each crime involved and updates them as to the outcome.

**NOT PROTECTIVELY MARKED**

30.11 The DCI concerned will also be responsible for ensuring that the victim(s) of each crime are informed of the final court result, and sentence received by the offender. This aspect of victim care is of the utmost importance, and will have a significant impact on the confidence of the victim in West Midlands Police.

**31. FORM MG18/18A (TIC FORM): DISSEMINATION**

31.1 Form MG18 falls in line within the relevant guidelines of this policy; it consists of five parts, each colour coded. It is a self-carbonating form (A4 size).

31.2 Copies of MG 18/18a, signed by the defendant, will be distributed to the following:

- Yellow copy - to the defendant
- Green copy - retained with case papers

The three remaining copies (2 x white & 1 x blue) will be forwarded with the case file to CPS, who will distribute them as follows:

- Blue copy – retained by CPS
- White copies (two) - Court clerk in the sentencing court.

31.3 Form MG18/18a can be ordered from Force Stationery Stores.

**32. APPENDIX A**

- **Form A**
- **Form B**
- **Form C**



## Form A

### Offences taken into consideration (TIC)

*Please read the following information and think carefully before you are interviewed. You have the right to free legal advice whilst in police custody and if you have solicitor then feel free to discuss it with them.*

At the conclusion of the interview, you will be given the opportunity to tell us about other offences that you have been involved in. If you admit to further crimes that are similar to the one that you have been arrested for, it may be possible, depending on all the circumstances to have these crimes taken into consideration when you appear at court, rather than charge you with them.

#### Why should I?

- Because your fingerprints and DNA will be taken and searched against all outstanding crime scenes. If evidence is found indicating that you are responsible you may be arrested and charged again, where there is sufficient evidence.
- Because all offences that you admit, will if possible, be dealt with at the same time by the court and you can **'Put Your Past Behind You'**.
- Because the court will be aware of your co-operation and this may be considered when you are sentenced.
- Because the more often you appear before a Court for sentencing, the more likely you are to be given a longer custodial sentence. It will, therefore, be of benefit to have all offences that you are responsible for dealt with at the same time.

TICs give you the opportunity to put the offences behind you and make a fresh start. Please speak to the investigating officer who can answer any of your questions.

Think carefully about any crimes that you have committed. It is in no one's interest for you to admit crimes you have not committed, but this is your opportunity to **'Put Your Past Behind You'**.

The above relates to all persons "on remand". However, if you are already serving a sentence, West Midlands Police has no procedure to "write off" these matters. In those circumstances, the facts will be reported to the CPS in order for a decision to be made as to which offences are subject of charge and TIC.

Served by..... Time/Date.....



## Form B

### Offences taken into consideration (TIC)

### Notice to Legal Representatives and Appropriate Adults

West Midlands Police are continuously reviewing the evidence available from offences committed, i.e. DNA, Fingerprints, Evidence from Witnesses. We have a robust and positive policy of investigating and detecting these offences.

At the conclusion of the detainee's interview, they will be given the opportunity to admit any other offences that they want the Police/CPS or a Court to consider.

Whilst the most likely outcome of further offences being admitted is for them to be taken into Consideration (TIC), all other options, i.e. no further action, caution or charge, remain open.

The option to have offences TIC is only available for similar offences to those charged.

The nature and seriousness of an offence admitted may also mean that it cannot be TIC.

If, at a later date, sufficient evidence is discovered that proves the detained person's involvement in an offence which they have failed to admit or denied involvement in, the detained person will be liable to re-arrest and may be subject to further charge(s).



**Form C**

**Offences taken into consideration (TIC)**

Custody Record Number: .....

Name: .....

Officer in Case: .....

Solicitor Present: .....

You have admitted responsibility for the following offence(s) for which you may be charged:

.....  
.....

Before I close this interview with you, I would invite you to admit responsibility for any other crimes that you have committed.

If you admit to other crimes that are SIMILAR to the one that you have now been arrested for, it may be possible to have them TAKEN INTO CONSIDERATION when you appear at court, rather than you being charged for each of them. This cannot be guaranteed and the Crown Prosecution Service would have to make the final decision.

The court will be told of your co-operation and this may help when you are sentenced.

If you do not take this opportunity, and evidence of your involvement in a crime is later discovered, for example by FINGERPRINT or DNA EVIDENCE coming to light, then it is highly likely that you will be arrested again and charged with other crimes.

Think carefully about any crimes that you have committed. It is in no one's interest for you to admit crimes you have not committed, but this is your opportunity to get a CLEAN SLATE.

ARE THERE ANY OTHER MATTERS THAT YOU WOULD LIKE TO HAVE TAKEN INTO CONSIDERATION?

Signature of issuing officer: .....

**(Completed form to be retained with Case File)**

### 33. EQUALITY IMPACT ASSESSMENT (EQIA)

33.1 The Policy has been reviewed and drafted against all protected characteristics in accordance with the Public Sector Equality Duty embodied in the Equality Act 2010. The policy has therefore been Equality Impact Assessed to show how WMP has evidenced 'due regard' to the need to:

- Eliminate discrimination, harassment, and victimisation.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

*Supporting documentation in the form of an EQIA has been completed and is available for viewing in conjunction with this Policy.*

### 34. HUMAN RIGHTS

34.1 This policy has been implemented and reviewed in accordance with that set out with the European Convention and principles provided by the Human Rights Act 1998. The application of this policy has no differential impact on any of the articles within the Act. However, failure as to its implementation would impact on the core duties of values of WMP (and its partners), to uphold the law and serve/protect all members of its community (and beyond) from harm.

### 35. FREEDOM OF INFORMATION (FOI)

35.1 Public disclosure of each policy document is determined by the Force Policy Co-ordinator in agreement with its owner. Version 4.2 of this policy document has been GPMS marked as 'Not protectively marked'

35.2 Public disclosure does not automatically apply to supporting Force policies, directives and associated guidance documents, and in all cases the necessary advice should be sought prior to disclosure to any one of these associated documents.

Which exemptions apply and to which section of the document?	Whole document	Section number
No Issues	N/A	N/A

### 36. TRAINING

36.1 No formal training has been devised to support the implementation of this policy. Crime Managers, Detective Chief Inspectors, Inspectors and Sergeants should familiarise themselves with this policy.

### 37. PROMOTION / DISTRIBUTION & MARKETING

37.1 The following methods will be adopted to ensure full knowledge of the Policy:

- Policy document and associated documents on the Force Intranet (Noticeboard) for the attention of all WMP officers and staff;

**NOT PROTECTIVELY MARKED**

- Recording and audit entry on the Force policy library (EQUIP);
- Intranet marketing via Force CID intranet site;
- Copy of Policy sent to all Crime Managers via email

**38. REVIEW**

- 38.1 The Policy business owner Force CID will maintain outright ownership of the policy and any other associated documents and in-turn delegate responsibility to the department/unit responsible for its continued monitoring.
- 38.2 The policy should be considered a 'living document' and subject to regular review to reflect upon any Force, Home Office/ACPO, legislative changes, good practice (learning the lessons) both locally and nationally, etc.
- 38.3 A formal review of the Policy document, including that of any other potential impacts i.e. EQIA, will be conducted by the date shown as indicated on the first page.
- 38.4 Any amendments to the Policy will be conducted and evidenced through the Force Policy Co-ordinator and set out within the version control template.
- 38.5 Feedback is always welcomed by that of the author/owner and/or Force Policy Co-ordinator as to the content and layout of the policy document and any potential improvements.



**CHIEF CONSTABLE**

**39. VERSION HISTORY**

Version	Date	Reason for Change	Amended/Agreed by.
V. 1 - 4		Amendments made as a result of consultation (see consultation record)	DCI 0707 Tagg
V.4.1	22.01.2013	Dates/version amended prior to submission to ACC Cann for approval	PS 4566 Brookes
V.4.1	25.02.2013	To CC Sims for authorisation	PS 4566 Brookes