



Taken into Consideration (TiC) Procedure

This procedure is part of North Yorkshire Police policy to which all Chief Constable personnel and the functions provided by the Police, Fire and Crime Commissioner are required to adhere.

Procedure Statement

This procedure aims to provide individuals who are arrested with an opportunity to admit further similar offences which they have committed, leading to a decision being made as to whether to have these offences taken into consideration (TIC) by a Court, and to provide clarity regarding the criteria for offences to be TIC.

TICs are those offences that the offender has not been prosecuted for but which they admit and asks the court to consider when being sentenced for an offence for which they have been prosecuted

North Yorkshire Police (NYP) is committed to:

- increasing positive outcomes for reported crimes
- increasing public confidence both in the Police and the Criminal Justice system
- the ethical detection of crime
- Making people safe and to feel safe

In order to achieve this, the Force will provide, where appropriate, individuals who are arrested, with an opportunity to admit further similar offences which they have committed. A decision will follow as to whether to charge those offences in addition, or whether it may be possible, depending on the circumstances, to have these offences taken into consideration by a Court.

Detainees will be informed it is not current Force policy to routinely conduct interviews after sentence and, if further offences come to light, individuals are likely to be arrested and dealt with for the further offences on completion of their sentence.

There are four main aspects to consider when dealing with TICs, these are the:

- victim
- offender
- courts
- police

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The offender is prosecuted for a certain number of crimes but not charged with all the offences admitted. These TIC crimes will normally be ones which do not have a substantial effect on the sentence given by the court. The courts time is reduced in dealing with each offender because not all crime admitted to the police is discussed. This accelerates the justice system and frees up time to deal with other cases. The Court are able to gain a better insight into the suspects offending in considering sentencing options. The police are able to close the crimes admitted and update the victim that an offender admitted the offence relating to them. Victims are able to then bring about closure and apply for compensation should they so wish.

Procedures:

Adult-Prosecution

Youth-justice

Crime-recording-and-occurrence-management-unit

Process

Where a suspect is under arrest and detained at a police station under investigation, the investigator should consider whether the introduction of TICs is suitable to that particular suspect. Such things to consider would include the nature of offence being investigated, suspect's previous offending history, the suspect's previous dealings with Police and the ability to build a rapport with the suspect. Prolific offenders and top targets should always be given the opportunity to have offences TIC.

Where offences to be TIC carry license endorsement and a disqualification, they may only be TIC where one or more of the offences of which the defendant has been convicted is also endorsable or may lead to disqualification. Caution should be exercised when TIC offences which, if they were to be charged together for the principal offence may result in disqualification under the totting up provisions.

On arrival at custody for any acquisitive crime offence the custody officer to present the suspect with the notice to detained persons/offences taken into consideration.

If the suspect is considered suitable to be given an opportunity to admit further similar offences to be TIC, investigator should seek the permission of the custody officer to attend the cell and introduce and explain the notice to detained persons / offences taken into consideration. The cell visit and the purpose must be recorded on the custody record.

No questions will be put to the detainee whilst in the cell.

This visit should be used as part of the developing rapport stage of the PEACE model.

The investigator should introduce themselves, explain what is about to happen during the interview and introduce the Form 26, explaining the purpose of TICs.

If there is enough evidence to link a suspect to an offence, then they should always be arrested and interviewed.

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Where an offender is currently under arrest for offences and they make admissions, take the opportunity to discuss any similar or like offences. These will be offences for which there is insufficient evidence to arrest the suspect, without an indication from them that they are involved in that offence.

The interview where a suspect will be given the opportunity to admit other offences for possible TIC should follow that of all other PEACE interviews.

A suspect must have admitted the offence for which they were initially arrested before the TIC process can proceed further.

The TIC stage of the interview should be planned, in the same way as any other suspect interview.

Ensure that the legal representation of the Suspect is aware that the TIC process is being considered.

What information is available to allow the investigator to probe any account given by the suspect when they admit to crimes?

- did the suspect or anyone else suggest involvement in other offences upon arrest?
- what property was found during any searches of the suspect, their co-suspects, their vehicle(s), their personal property and permanent or temporary residences?
- details of similar crimes
- statements from victim / witness

Knowledge of the suspect's behaviour whilst in custody previously

- has the suspect volunteered offences to be TIC before?
- does the suspect understand what TICs are?
- is the suspect subject to, or are they in breach of a sentence, e.g. suspended sentence?
- is the suspect now in jeopardy of the Crime Sentencing Act? If so, then admitting to all the offences now, in the face of a minimum jail term provides them with an opportunity to have offences TIC rather than risk being charged with those offences in the future. This is particularly relevant to prolific offenders.
- In the case of Prolific and Persistent Offenders (PPO's) this process should always be considered as well as each case where a person is arrested. If in doubt seek advice from a supervisor.

Antecedents

Investigate the suspect as well as the crime. This should be part of the rapport building stage of the interview.

Is the suspect in a relationship? Will the prospect of admitting offences and "wiping the slate clean" be more attractive due to a new partner, child or lifestyle?

Was the suspect funding a drug habit which is now under control or over?

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Analysis

Thoroughly researching Niche / PNC and other sources of intelligence and information will maximise your opportunities to obtain offences which can be considered to have TIC.

- what offences are recorded where the suspect is named or described as a suspect? The more evidence that is put to the suspect of similar offences to assist in their recollection of offences the better. Offences are more likely to be admitted when the interviewer is in a position of strength during interview. Does the MO of the offence for which the suspect was arrested match that of other recorded crimes?
- Has the suspect been interviewed previously and denied an offence with a similar MO? There now may be evidence regarding a fresh offence which may change the suspect's stance regarding the older offence.

Introducing the subject of other offences

The subject of TICs should only be introduced by the interviewer once the interview for the primary offence has been completed and the offence admitted.

- where there is evidence prior to interview to suggest the suspect has committed an offence, they should be arrested.
- start the TIC interview with an explanation of the process of having offences taken into consideration by a court.
- use plain language.
- remind the suspect of the offence which they have admitted, even if it was just minutes earlier.
- do not discuss bail or withholding bail with the suspect. If asked, your reply should be similar to "That is a decision for the Custody Sergeant. My job is to give you a chance to tell me about other crimes you've committed".
- do not make promises that all offences which are admitted can be TIC. If the suspect has been arrested for the theft of a cycle and goes on to admit a burglary, it is highly unlikely that the burglary will be TIC.

Suggested wording to introduce the opportunity for suspects to have offences TIC should be along the following lines:

"Before the interview, you were handed a notice explaining the benefits of cooperating in providing accounts of other offences you may have committed and the risks should further evidence come to light. You have admitted responsibility for the offence/offences of (.....) for which you may be charged. This is your opportunity for a clean slate and to admit responsibility now for other offences you have committed. If these are similar to the offence you are charged with, the court can 'take these offences into consideration' when sentencing you, if found guilty of the crime(s) you are charged with. Do you have anything else you wish to say? "

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See Appendix A for further guidance

Where offences are admitted, the interviewer should probe accounts given to corroborate the admission. E.g. So how did you get into the shed, what did you steal, what make of car did you steal the iPad from on Gale Lane?

The suspect may be suggestible or vulnerable. Care should be taken to avoid the suspect admitting to offences they have not committed.

- has the suspect needed an appropriate adult previously?
- could the suspect have committed these offences? (Check account thoroughly against crime report, modus operandi (MO), property stolen etc.)
- does evidence from a previous sentence, arrest, intelligence, residence, employment, description, witness statements etc tend to show that the suspect did not commit the offence?

Care is required when detecting offences by way of TICs. Should any admission be subsequently discredited then this will undermine every other offence and could impact on the primary offence under investigation, as well as having a more far-reaching negative effect.

If the suspect requests legal advice at any point during the TIC process, then the interview should be suspended in accordance with PACE.

The obtaining of admissions for offences disposed of as TICs should never be at the cost of integrity.

Used ethically, the process of obtaining positive outcomes by way of TIC, gives suspects the opportunity to admit offences they have committed, so that the court can be made aware of the full extent of their offending prior to sentence.

Section 31 of the Police and Criminal Evidence Act 1984 (PACE) provides guidance when a suspect admits to further offences during the course of interviews.

Where there is a need to arrest the suspect for the other offences admitted, this should be done in plain language, for example, "You are now under arrest for the offence of burglary at Hope Street, York where you stole a computer".

Caution the suspect at this point. Treat each potential offence to be considered as one to TIC as a stand-alone matter, so that if it cannot be dealt with as a TIC, it may still pass the evidential test for charge.

It is not necessary to immediately present the suspect to the Custody Officer; continue with the interview. When the interview is complete, update the Custody Officer with details of the additional offences the suspect has been arrested for. These should be recorded on the Custody Record.

The investigator may, on some occasions, seek to take the suspect out of the Custody area to allow the suspect to identify premises or locations of offences which they wish to admit to. If this is to be facilitated, consider a pro-forma document for ease of recording anything that is said. The suspect should be reminded that they remain under arrest and cautioned prior to making any admissions.

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Be aware of the questions that the suspect may ask, for example, "What will happen if I admit more offences?"

PACE code C11.5 states:

"No interviewer shall indicate, except to answer a direct question, what action will be taken by the police if the person being questioned answers questions, makes a statement or refuses to do either. If the person asks directly what action will be taken if they answer questions, make a statement, or refuse to do either, the interviewer may inform them what action the police propose to take provided that action itself is proper and warranted."

Appendix B highlights some issues which a suspect may raise.

Additional procedural considerations and practice

To record a positive outcome for any recorded crime as a TIC the following conditions apply:

- the suspect should have been interviewed in accordance with the provisions of PACE 1984 and the Codes of Practice and admitted the offence,
- the suspect should have signed the completed 'other offences' form MG 18, if offences are to be taken into consideration at court.

There should be sufficient evidence to provide a realistic prospect of conviction had the offender been charged before a court with the offence.

Victim: If there is an identifiable victim for the offence, they should be informed of the outcome of the investigation, together with the method of outcome, in line with the Code of Practice for Victims of Crime and Crime Recording procedures. This notification should be appropriately recorded in line with policy.

Remember:

The 'other offence' must be similar in nature, and not more serious than the principal offence.

If the suspect admits to having committed offences that have not been previously recorded as a crime, make enquires to trace the victim or victims.

If the victim of crime is traced and confirms a crime, record it. Record the crime as being reported 'on admission'.

However, if the alleged victim is not traced or is unable to confirm the offence, do not record the crime. Make a note of the fact that other offences were admitted on the OEL of the primary crime.

Record the details of all 'other offences' on the 'particulars of other offences' schedule on the back of form MG 18 (and the continuation sheets, if necessary).

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Taking Offenders Out of HMP/Police Custody

If it is appropriate to ask the offender if they would be willing to take you out to scenes/locations of offences to point out and/or assist in identifying specific offence then do so (commonly referred to as a 'drive around').

Body Worn Video is generally sufficient for recording the whole journey, but a contemporaneous record will also be made during the journey. At the end of the drive around and on return back to the police station/in prison YOU MUST ALWAYS interview the offender again on tape to confirm the scene identification and the admissions if ambiguities exist. Each TIC must be signed by the suspect on the MG18.

Culture and Professionalism - Whilst on the drive around PACE conditions still apply and therefore it will be the OIC responsibility to ensure that the offender is given food/drink which is proportionate for the time of the day. However, this does not mean taking the offender to an eating place or to their home, in addition no visits to friends/families and/or partner should ever take place; other considerations should be made to meet the needs and diversity of each individual as per force policy.

TIC offences not accepted in interview/at court

If an offender has accepted and signed a TIC offence form in an interview or at another location, but changes their mind at court and no longer wishes to accept the offences they originally agreed to TIC, it is their right to withdraw the TIC offences.

Similarly, the OIC may indicate on the confidential information to the CPS that a TIC opportunity was offered during interview and declined.

What to do if the OIC has concerns over the integrity of admissions (Waters v Lee)

The court may still sentence for offences admitted even without corroboration (R v Sweeney)

Timing of the approach to TIC/assess for PI is key.

The court should only take into consideration offences which are similar to those in respect of which convictions have already been recorded. There is a force decision not to include sexual offences as one which can be TIC'd.

Charge

When charging an offender:

- Say – *“On the information currently available, it appears appropriate to charge you with [x] and have [y] taken into consideration at sentencing. If you accept the offences to be taken into consideration now, but refuse them later in the proceedings, you may be prosecuted for those offences. Do you understand?”*
- Fully complete the front of the Mg18 and sign it
- give a copy of the fully completed MG 18, and schedule of offences to the offender, and ask them to sign the original as a receipt
- prepare a signed copy of the report and submit to the CPS with the Streamline file.

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- ensure that the MG15 summary of interview includes details of all the offences admitted and dealt with as TICs. Details of all offences should appear on the prosecution file, along with all other associated paperwork relating to the TICs, e.g. witness statements
- MG6 submitted with the number and details of the offences TIC

Adult / Youth caution. Attach a copy of the schedule of 'other offences' to each copy of the caution file.

Review

The DI will review all the TIC paperwork and admissions made, including listening to all of the audio recording/BWV Video recordings/drive around recordings/interviews in prison for PIP 2 offences.

Following the review by the DI the paperwork may be passed back to the supervisor to complete more enquiries and/or where learning is identified.

All reviews conducted by the DI should be recorded on the relevant crime on the crime system and an outline of their review findings added to the OEL. All updates need to ensure compliance with the TIC procedure.

Form of words for DI to use:

The offences taken into consideration must be similar to, but not more serious than the offences charged (Burglary). The offence is one of Burglary Dwelling to be TIC'd.

The offender XXXX DOB XXXX has been interviewed in XXXX under caution about the offence and has made a clear and reliable admission to committing the offence during the interview, detailed enough to link the offender to the offence admitted.

He stated XXXXX example that either at the end of 2017 or early 2018, he broke in through the back window and stole a jewellery box and a car key to a Kia, then left. He didn't take the car as it wasn't there. He broke the window glass in the door with a screwdriver and opened it. He went in every room but the stolen property was from the back bedroom he thinks. Describes jewellery box as like a tissue box but three times as tall. Got about £700 for the gold jewellery but can't remember where or who sold the jewellery to. Threw the costume jewellery away. It happened at about 5pm. Committed the offence on his own. XXXX asks that this offence be taken into consideration.

He has been informed that it will form part of their criminal record and may be cited in court in future proceedings, disclosed as part of an enhanced DBS check, if considered appropriate, and shared with other agencies when appropriate. There is additional verifiable auditable information connecting the suspect to the crime. The offender has appeared before a court to have the matter taken into consideration.

The Form MG18 (TIC Schedule) has been fully completed and signed by the offender. Detective Inspector XXXX is satisfied that there is additional information connecting the person to the crime.

Integrity and Transparency are key

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Home Office requirements are that offences can only be accepted as TIC's if there is sufficient evidence to deal with them by way of a charge. Emphasis on the integrity of the admissions must be supported by:

- Documentary corroboration of the admission to the offence by the suspect.
- The account by the suspect must match the method or a specific factor in the relevant crime report.

Please be minded that we need to be transparent and therefore where actions have fallen below the standards of professional behaviour, this will be dealt with accordingly.

Responsibilities

TICs will be sought in all cases where appropriate. Investigators must ensure the validity of such admissions and update the victims of those crimes. All such crimes will be updated by the investigator on Niche.

Note: In compliance with the Freedom of Information Act all force policies and procedures that are not marked as OFFICIAL-SENSITIVE will be published on the NYP Website. It is necessary to apply Government Security Classification (GSC) see Protective Marking Procedure for advice on how to mark and handle documents.