



ACPO Position Statement: Interviewing Suspects about Offences Taken Into Consideration

**National Investigative Interviewing
Strategic Steering Group (NISSG)**

INTERVIEWING SUSPECTS ABOUT OFFENCES TAKEN INTO CONSIDERATION

Introduction

Offences taken into consideration (TIC) and how to ethically obtain them during interview can be something that causes a degree of disorientation amongst some officers. This can also be an issue with some crime managers responsible for performance who whilst under pressure to deliver results are not fully aware of the practicalities of the interview process and expect results from a simple solution such as the serving of 'Cleanslate'¹ documentation to suspects.

Background

Operation Cleanslate has been implemented by many police forces in England and Wales to encourage persistent offenders to admit their total criminality whilst in custody. Local practices may vary slightly but basically the process involves the serving of notices on suspects when they come into custody outlining the advantage of admitting further offences in that they will no longer be liable for future arrest and prosecution if new evidence comes to light. The subject of 'Cleanslate' should be discussed at the end of the suspect interview.

The service of such a notice is recorded in the custody record and the force intelligence systems. It should be brought to the attention of the court if the opportunity to make admissions is declined by the suspect and offences are subsequently charged. Notices regarding 'Cleanslate' are displayed in custody offices and in at least one area in the cells themselves

Throughout the country there are many examples of good working practices particularly involving a multi agency approach to persistent offenders, there are also examples of a less structured approach where TIC interviews are conducted superficially in a less than enthusiastic manner and rely mainly on the immediate response of the suspect to service of a Cleanslate form.

¹ The origins of Operation Cleanslate stem from the *Review of TIC Practices across Criminal Justice Areas* (Office for Criminal Justice Reform, 2005).

The ACPO Position

Obtaining TICs should be taught to interviewers in volume and priority investigations (PIP level 1), it can also be taught to interviewers in serious and complex investigations (PIP level 2) but the consistency of the training could be improved with the aim of identifying opportunities to maximise other offences in interview.

Planning and preparation prior to interview is one of the most important phases in effective interviewing and is particularly relevant to TIC interviews. To conduct a meaningful and effective interview it is essential appropriate research is conducted into the suspect including their previous convictions, offending history and evidence of bad character. Research should also be conducted to identify other potential offences through intelligence gathering, analysis and investigative activity such as searches and identification of forensic opportunities.

The interview for the primary offence under investigation is complete when it has properly been concluded that no purpose will be served by pursuing it. At this stage any account or admission should have been explored and if necessary successfully challenged to prompt an admission. If the suspect admits their involvement in the primary offence and there is sufficient evidence to charge there is an opportunity to capture TICs. Police officers are entitled to interview suspects for offences other than those which resulted in the initial arrest/allegation as long as there are reasonable grounds for suspecting their involvement in those other offences, such a suspicion should be informed as a result of the material gained during the planning phase. Interviews for TICs fall within the scope of Code C of the Codes of Practice to the Police and Criminal Evidence Act (PACE) 1984 because it defines an interview as 'the questioning of a person regarding his involvement or suspected involvement in a criminal offence or offences' which would need to be carried out under caution by virtue of paragraph 10.1 of the Code.

At this stage the suspect should be given a TIC warning regarding Cleanslate and an explanation of the process before moving into the interview for other

offences. This should include confirmation that the TIC Notice document has been signed for and is understood by the suspect and the legal representative is aware of this. The TIC interview should be included in the pre interview briefing to the legal adviser.

Any further interview must be recorded in accordance with PACE. Inducements cannot be made and phrases such as those offering bail in return for admissions for other offences, or promises that all admissions from hereon will be TIC'd should be avoided. If a suspect asks what will happen if he admits other offences they can be told of the options available to the police, including the TIC procedure but it must be emphasised that the final decision does not rest with the interviewing officer.

The Home Office requirement for a TIC to be allowed as a 'detection' is that there should be sufficient evidence to charge the suspect for the offence; the TIC should also be for a like offence and not be more serious than the offence charged. In some cases evidence could be just the fact that the suspect describes the offence in such a way that only the offender would know, and this would be sufficient if the information is elicited from the offender without prompting from the interviewer. It is therefore important that any admissions are explored in fine detail to establish their integrity; this should also include issues such as whether the offence was committed on bail or other aggravating factors.

The scope of this document prevents a detailed description of methods of questioning and tactics within the interview but it is important that officers recognise the opportunities during the prosecution process that are available to conduct further properly recorded TIC interviews². These include 'ride around' interviews with compliant suspects to point out locations of their offending, post charge interviews and post conviction and pre sentence interviews, this includes the monitoring progress of cases where offenders did not make admissions in interview but subsequently pleaded guilty at court.

² *Review of TIC Practices across Criminal Justice Areas* (Office for Criminal Justice Reform, 2005).

Interviewing officers need to be aware of the Court of Appeal judgments in R v Miles [2006] EWCA Crim 256 and R v Waheed ALI [2009] EWCA Crim 2396 together with the Sentencing Guidelines (see ACPO position statement on this topic and <http://www.sentencingcouncil.org.uk/sentencing-guidelines.htm>) which have the potential to be problematic regarding offenders being sentenced for the totality of their criminality and possibly being misled or coerced into believing that it is better to admit other offences as they may be punished less severely.

Good practice (Hertfordshire) has been identified by using a multi agency/partnership approach to identify offenders with a motivation to change particularly regarding drug dependant suspects. This should form part of the intelligence gathering and interview strategy to identify offenders who are at a time in their lives where admitting other offences and moving on away from criminality with the assistance of other agencies can be maximised.

At a strategic level it is essential that there is a consistent approach by the CPS regarding the prosecution of other offences when evidence becomes available post conviction and the offender has had the opportunity but not taken advantage of opportunities to admit other offences under Operation Cleanslate.

Acknowledgement

This position statement was prepared by DCI Steve Hibbitt, an ACPO Approved Interview Adviser from Humberside Police.

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