

## General Crime Counting Rules

### A. Recording Criminal Offences

#### A.1

A criminal offence is recorded when there is a reasonable probability that a criminal offence took place and there is no credible evidence to the contrary. The test is that of a reasonable probability - whether it is more likely than not that a criminal offence took place.

#### A.2

A criminal offence is recorded by recording an appropriate PULSE Crime Incident subject to the rules below.

#### A.3

If the criteria to record are satisfied (reasonable probability and no credible evidence to the contrary) and the victim does not want the matter taken any further, a criminal offence should be recorded.

#### A.4

The following rule applies to criminal offences where victim confirmation is required to complete the offence e.g. assault and fraud. Where the alleged victim (or a person reasonably assumed to be acting on his/her behalf), declines to confirm that a criminal offence took place, or cannot be traced, a criminal offence should not be recorded unless there is evidence to suggest that there is a reasonable probability that the criminal offence took place.

#### A.5

If a person reports that he/she has been the victim of a criminal offence and subsequently withdraws the report by stating that the criminal act did not take place, the criminal offence should be marked invalid on PULSE, unless there is evidence to suggest that there is a reasonable probability that the criminal offence took place.

#### A.6

A criminal offence should be recorded (and counted) against the Garda Sub-district in which the particular offence was committed. Where the place of commission cannot be determined the offence should be recorded against the Garda Sub-district in which it was reported. Criminal offences under Irish law that are committed abroad (such as those under the Sexual Offences (Jurisdiction) Act, 1996) should be recorded against the Garda Sub-district in which it was reported.

#### A.7

If a criminal offence has been recorded and a Garda investigation subsequently determines that a criminal offence did not take place the criminal offence should be marked invalid on PULSE.

## **B. General Counting Rules**

### **B.1**

**Primary Offence Rule:** Where two or more criminal offences are disclosed in a single episode it is the primary criminal offence that is counted<sup>1</sup>. The primary offence is that offence to which the greater penalty may apply. (Where offences have similar penalties, offences against the person take precedence over offences against property for the purpose of determining the primary offence). For example, two criminal offences are disclosed in the one episode where a person commits a burglary and kills a person in the building. The murder offence is the primary offence in this example. Consequently, the episode counts as one murder in the crime statistics even though details of the two offences are recorded.

### **B.2**

**One Offence Counts Per Victim:** One offence counts per victim involved subject to the relatively small number of exceptions below. For example, one sexual offender who offends against two (or more) different victims counts as two (or more) offences in the crime statistics. (Regardless of the number of offenders involved, one offence counts per victim. For example, two persons acting together in a bank robbery count as one robbery offence in the crime statistics). There are two exceptions to the rule of one offence counting per victim. The exceptions relate to cheque/credit card fraud and burglary.

In some situations the cheque/credit card exceptions require that a series of these offences count as one offence in the crime statistics. This applies for example to the uttering/handling of cheques within the value of the bank's cheque guarantee scheme: one offence of uttering/handling is counted because the originating bank ultimately suffers the loss. Where cheques are fraudulently encashed in amounts exceeding the guaranteed limits, a separate offence counts for each victim sustaining financial loss.

The burglary exception requires that one burglary offence is counted where property belonging to two or more victims is taken (or damaged) in the course of a single burglary. For example, a house burglary may result in the theft of property belonging to several members of a family. In such a situation one burglary offence is counted in the crime statistics. However, where offices or flats in the one complex are broken into, each office or flat entered counts as a separate burglary offence when each office or flat is owned or occupied by different tenants.

### **B.3**

**Continuous Series Involving The Same Victim And Same Offender:** A continuous series of offences against the same victim involving the same offender counts as one offence. For example, a continuous series of offences involving an employee who steals on two or more occasions from his or her employer is counted as one theft in the crime statistics.

## **C. Reclassification of Criminal Offences**

### **C.1**

A criminal offence is classified at the time when it is entered on PULSE. Re-classification is only required within or to homicide offences. A reclassification within homicide occurs where a murder is reclassified to manslaughter when a charge of manslaughter commences or when a murder charge results in a conviction for manslaughter. A reclassification to a homicide offence (murder, manslaughter or infanticide) occurs when, for example a serious assault has been recorded and, sometime later, the victim dies as a consequence of the assault.

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<sup>1</sup> Previous versions of Crime Counting Rules referred to a 'Headline Offence Rule' which was abolished as of 1<sup>st</sup> January 2009.

## C.2

Homicide offences apart, reclassification is not required when a lesser charge than the offence classification is directed or when a conviction for a lesser offence is obtained.

## D. Detected Criminal Offences

### D.1

A criminal offence incident can only be classified as detected for Garda statistical purposes using one of the following three criteria at D.2, D.3 or D.4.

### D.2

A criminal offence may be classified as detected when criminal proceedings have been commenced against at least one person for the criminal offence. The commencement of proceedings must be based on sufficient admissible evidence to charge, which, if given in court would have a reasonable probability of resulting in a conviction. Sufficient admissible evidence to charge means that the evidence supporting the case must be such that if given in court there is a reasonable probability of conviction. It must be contained within signed written statements or in other satisfactory documentary, technical or forensic form. When this is not the case, the crime incident will remain undetected.

If the person is subsequently not convicted of the criminal offence, the relevant District Officer will conduct a full review of all of the circumstances. If he/she is satisfied that there was a reasonable probability, based on sufficient evidence, that the person charged committed the criminal offence, then the detection status will remain as "Detected".

### D.3

Approval has been granted for a child (as defined under the Children Act, 2001) to be dealt with by An Garda Síochána in accordance with the Diversion Programme, as provided for in the Children Act, 2001.

### D.4

A decision not to prosecute has been taken for one of the following reasons:

(a) There would be sufficient admissible evidence to charge (as defined at 4.2) but the victim or an essential witness refuses\* or is permanently unable# or, if a juvenile, is not permitted to give evidence by parents, guardians, or other person in loco parentis.

(b) The offender dies before proceedings could be initiated or completed.

(c) The offender is ill and is unlikely to recover or is too senile or too mentally disturbed for proceedings to be taken. The question of whether or not a criminal offence has been committed in these cases should be considered.

(d) The complainant or an essential witness is dead and the proceedings cannot be pursued.

(e) It is ascertained that a criminal offence has been committed by a child under the age of criminal responsibility. The question of whether or not a criminal offence has been committed in these cases should be considered.

(f) There is sufficient admissible evidence (as defined at 4.2) to charge the offender but the Director of Public Prosecutions or relevant District Officer decides that the public interest would not be well served by proceeding with the charge. This would include instances where the criminal offence was committed years previously and a prosecution would be an abuse of process, or where the attendance of a victim or an essential witness at court is considered inappropriate.

(g) There is sufficient admissible evidence (as defined at 4.2) to charge the offender with a criminal offence in respect of which a time limit for the commencement of criminal proceedings applies, but that time limit has expired, and the relevant District Officer approves.

\* Victim/essential witness refuses means a refusal to give evidence at any time during the investigation or subsequent court proceedings is sufficient. The refusal will normally be recorded by a signed witness statement or signed notebook entry, but in exceptional circumstances a note by the member in their notebook or other official record will be sufficient when a victim refuses to do either of the former.

# Permanently unable means the victim or essential witness may be permanently unable to give evidence by reason of death, permanent illness, mental/physical incapacity, being overseas and not likely to return in the near future or being not traced.