



# **Guide to How Crime is Recorded and Counted by An Garda Síochána**

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## 1. Introduction

An Garda Síochána records details of crime incidents on a central database (PULSE). This facilitates the categorisation of crime into various Incident Categories and Types. Crime figures generated from PULSE are used within An Garda Síochána as management information and play an important part in operational and strategic decision-making.

The data recorded are also used by a wide variety of organisations that have an interest in specific or general aspects of crime.

The Central Statistics Office (CSO) publishes quarterly and annual reports in respect of crime statistics. It has applied an 'Under Reservation' status to these reports to reflect the fact that they have identified issues in the quality of the data that it has received from PULSE in order to compile these statistics.

An Garda Síochána has committed to a process of improvement of the quality of crime data recorded on PULSE. This document has been published as part of this process. It does not purport to capture all of the minutiae of incident-recording across the various crime categories and types. Rather, it explains how crime is recorded on PULSE having regard to the crime counting rules.

It is intended that, over time, this document will be supplemented and updated to build on this initial publication.

The purpose of the document is to provide clarity and to be a reference/explanatory guide around some of the main questions that arise among users of crime statistics such as:

- Why is crime recorded?
- What are the crime counting rules?
- How is a crime reported?
- When and how is a crime recorded?
- How is a crime incident classified?
- Can a crime incident be invalidated?
- What is the process for recording a crime as detected following an investigation?
- How are convictions recorded on PULSE?

## 2. Why is Crime Recorded?

Crime is recorded for a number of reasons including:

- Operational use: The details of each crime reported to, or discovered by, An Garda Síochána represent the starting point of an investigation and are therefore recorded on PULSE for operational use.
- Victim support: The relevant information recorded on PULSE assists in ensuring that victims of crime receive the service that they expect and deserve.

- Decision-making: Crime records are taken into account by An Garda Síochána management in decision-making regarding resource allocation and deployment.
- Crime Statistics: The crimes recorded on PULSE form the basis of the official crime statistics published by the CSO.

These objectives underline the importance of recording crime data to a high standard. In this regard, there are a number of principles (which it should be noted are referenced by the CSO) that guide the recording of crime data. These include:

1. *Relevance* – The data that are needed by users, internal and external, (where legally permissible) are recorded.
2. *Timeliness* – Incidents of crime are recorded in a timely manner so as to ensure that there is no loss of information on foot of a delay in recording what has been reported.
3. *Completeness* – All crimes and all relevant aspects of a crime are recorded.
4. *Consistency* – There is consistency over time, and in different areas/regions.
5. *Accuracy* – The data on the PULSE system accurately reflect the information known, including incidents being correctly classified.
6. *Coherence* – Data in different parts of the PULSE system are logically consistent with each other (e.g. the detection status of an offender should correspond with the recorded investigation outcome).

### 3. Crime Counting Rules

There are specific rules governing the recording and counting of crime incidents, and recording crimes as detected, which are set out at Appendix 1.

These rules were considered by an Expert Group on Crime Statistics, chaired by the CSO, which reported in April 2017<sup>1</sup>. The Report notes (on page 13): “There was agreement amongst the group that the principles governing recording, classification, invalidation, reclassification and counting of crime incidents are satisfactory in their current form”. However, the Group also agreed on a need for “...a more comprehensive explanation of the current crime counting principles – a publicly available document which explains clearly the rules governing recording, counting, invalidation, classification and reclassification of incidents” (page 13 of the Report by the Expert Group on Crime Statistics).

The present document contains references to Appendix 1 so as to link descriptions therein to the relevant rule(s). It should be noted that, in relation to rules for recording incidents as detected, other forms of sanction which, while not specified in Appendix 1, have either been

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<sup>1</sup>[http://www.justice.ie/en/JELR/Report\\_of\\_the\\_Expert\\_Group\\_on\\_Crime\\_Statistics\\_2017.pdf/Files/Report\\_of\\_the\\_Expert\\_Group\\_on\\_Crime\\_Statistics\\_2017.pdf](http://www.justice.ie/en/JELR/Report_of_the_Expert_Group_on_Crime_Statistics_2017.pdf/Files/Report_of_the_Expert_Group_on_Crime_Statistics_2017.pdf)

introduced or have become operational procedure since the Crime Counting Rules document was last updated<sup>2</sup>.

## 4. How is a crime reported?

A crime can be reported in a number of ways including the following:

- A member of the public may ring or call in person to a Garda Station.
- A member of the public may ring the emergency services (999 or 911).
- A third party may refer an incident to An Garda Síochána.
- On-line reporting: Theft of property in Ireland up to a value of €1,000 can be reported online through the Garda website.

Additionally, crime may be discovered (and subsequently recorded) by Gardaí in the course of their duties or as a result of specific enforcement initiatives.

## 5. When and how is a crime recorded?

### 5.1 Reasonable Probability

A crime is recorded when there is a reasonable probability that the circumstances amount to a crime as defined by Irish law or an offence under statute; and there is no credible evidence to the contrary.

***This is called the test of 'reasonable probability' – whether it is more likely than not that a crime took place<sup>3</sup>.***

A crime is recorded on PULSE when it is reported or discovered as opposed to waiting for an investigation to be conducted. This assumes that it meets the criteria of reasonable probability.

### 5.2 Is a victim's complaint necessary in order for a crime to be recorded?

There are occasions where a Garda can see clearly that a crime has occurred. An obvious example is where the Garda witnesses the crime directly. In such an instance, the threshold of reasonable probability is met and a crime is recorded and it does not necessarily require the victim of the crime to make a complaint.

However, in some cases, the only evidence that a Garda will have that the crime took place is the complaint of the individual. If the individual makes a complaint, and there is a reasonable probability that the crime took place, and no credible evidence to the contrary, it is recorded as a crime<sup>4</sup>.

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<sup>2</sup> Refer also to Section 9 below – When is a Crime Recorded as Detected?

<sup>3</sup> Refer also to A.1 and A.2 at Appendix 1

<sup>4</sup> Refer also to A.3 and A.4 at Appendix 1

There are occasions though where individuals withdraw their complaint. If the Garda still feels that in all probability, based on any other evidence acquired that the crime took place, then it remains recorded as a crime. However, if there is no other evidence, and the complaint is withdrawn, then this crime is marked invalid. (The record is marked as not being a valid record and is not counted in crime statistics)<sup>5</sup>.

In summary, crimes are recorded by An Garda Síochána when, on the balance of probability, a criminal offence took place. This is a judgement that the Garda needs to make. To record a crime does not necessarily require a complaint from a victim, but there are occasions when this is the only evidence. If it is withdrawn, and there is no other information to lead one to suspect that a crime took place, then the crime is marked invalid. (The record is retained on PULSE with a reason recorded as to why it is no longer a valid record.)<sup>6</sup>

### 5.3 When is an incident recorded on PULSE and counted in the crime statistics?

In Ireland, a crime is recorded when the alleged offence is first reported to An Garda Síochána. Hence, when Gardaí respond to a report of a crime, they record the incident (assuming it meets the criteria of reasonable probability) as opposed to waiting for an investigation to be conducted. An incident is created on PULSE that records data relevant to the alleged crime that has occurred.

### 5.4 Multiple Crime Incidents: The Primary Offence Rule

There are occasions when multiple crime incidents occur. For example, a house is burgled and a vehicle is taken. There are two crimes here: burglary and the unauthorised taking of a vehicle. Both incidents are captured on PULSE. For the purpose of reporting crime statistics, they are 'cased' together (representing the fact that, whilst there were multiple offences, it occurred during one 'episode'). However, only the most serious offence is counted. This is the one that carries the heaviest penalty in terms of sentencing. **This is called the 'Primary Offence' rule.**

Taking our example from above, a burglary and the unauthorised taking of a vehicle would be recorded on PULSE; they would be grouped together (cased), and the burglary would be counted as the **Primary Offence**. (Burglaries have a possible sentence of up to 14 years whilst unauthorised taking of a vehicle would have a possible sentence of up to 5 years). The burglary is included in the count of crime in the crime statistics. The unauthorised taking of the vehicle is **recorded as a secondary offence (Non-Primary) and is not counted.**

Importantly, this does not mean that An Garda Síochána will investigate only the burglary in such a scenario – both incidents will be investigated. It is simply that for statistical reporting purposes, the most serious offence is counted. Where offences have similar penalties, offences against the person take precedence over offences against property for the purposes of determining the Primary offence<sup>7</sup>.

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<sup>5</sup> Refer also to A.5 and A.7 at Appendix 1

<sup>6</sup> Refer also to Section 8.1- The Victim and the Investigation of Crime

<sup>7</sup> Refer also to B.1 at Appendix 1

### 5.5 More than one victim: The 'one offence counts per victim' rule

There are occasions when a crime takes place and there are multiple victims. For example, one individual could be involved in an altercation that leads to several people being assaulted.

In general, the approach taken in Ireland is that each person has been a victim of crime and these are recorded as separate crime incidents. In the case above, if three people were assaulted, each has been a victim of crime, and hence three incidents of assault are recorded (each with the same perpetrator) and are counted as 3 crimes. **This is called 'the one offence counts per victim' rule**

However there are exceptions to this rule, i.e. Burglary and Cheque/ Card Credit Fraud. For example, a house burglary may result in the theft of property belonging to several members of a family and/or guests staying in the house at the time of the burglary. In such a situation **more than one Injured Party is recorded in the incident and one burglary offence is counted in the crime statistics**

However, where offices or flats in 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. Individual incidents are recorded for each instance of burglary and each instance is counted as a crime.

Also, 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<sup>8</sup>.

### 5.6 How are serial offences recorded and counted?

There are certain instances when there has been a continuous series of offences, reported together, which have been committed by the same person against the same victim, over a prolonged period of time (sometimes years). For example, an employee steals goods from his/her employer over a period of time. In this instance an incident is recorded on PULSE **in respect of each occurrence**.

For the purpose of crime counting, these incidents are grouped together (cased). Irrespective of the longevity of the alleged offending, it is still counted as one offence representing one crime event – the defrauding of the victim.

However, if there is more than one victim, then an additional offence is counted in respect of each victim. So, taking our example above, if one individual committed a series of frauds against three victims over a period of time, all incidents of fraud are recorded individually and three crimes of fraud will be counted<sup>9</sup>.

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<sup>8</sup> Refer also to B.2 at Appendix 1

<sup>9</sup> Refer also to B.3 at Appendix 1

In the event that a further offence occurs subsequent to the initial report being received, a further primary incident will be recorded and counted for statistical purposes.

### 5.7 Criteria for recording an incident as primary or secondary

As outlined above, incidents are grouped together 'cased' when there are multiple offences which have occurred during one episode. Incidents may also be cased for operational reasons.

The following is a summary of the 'rules' applied when incidents are being 'cased' so as to ensure that they are counted in accordance with the Crime Counting Rules.

1. When casing incidents, the incident to which the greatest penalty may apply is 'flagged' as *primary* (counted in Crime Statistics) and the other incident(s) are 'flagged' as *secondary* (not counted in Crime Statistics).

If all incidents have **equal potential penalties**, an offence **against the person** is marked primary over an **offence against property**. If all offences are still equal, the first occurrence of the sequence of incidents is flagged as the primary offence/incident; and the others are flagged as secondary offences/incidents.

For example, two criminal offences are disclosed in the one episode where a person commits a burglary and kills a person in the building. Murder and Burglary offences are recorded on PULSE. The Murder offence/incident is 'flagged' as the primary offence/incident in this example (greatest potential penalty) and the Burglary is 'flagged' as the secondary offence/incident. Consequently the episode counts as one murder in the crime statistics even though details of the two offences are recorded and investigated.

2. One offence normally counts per Injured Party subject to the exceptions in relation to Cheque/Credit Card Fraud and Burglary (See Section 5.5 above). For example 7 cars (owned by 7 different individuals) damaged in a car park in a single episode by the same individual would each be flagged as primary offences/incidents and thus all counted for the purpose of crime statistics.
3. A continuous series of offences against the same Injured Party by the same Suspected Offender counts as one crime.

Example: An employee steals goods from his/her employer over a period of time. A separate incident is recorded on PULSE for each occurrence and the incidents are grouped together (cased). Irrespective of the longevity of the alleged offending, it is still counted as one offence (representing one crime event – the stealing of goods from the victim). This is achieved through the casing of the incidents. This requires a decision to be made on which incident will be 'flagged' as the primary incident. The decision in this instance is made on the following basis:

- If the **value of the goods** is **greater** in one Incident than **any of the others**, then that incident is 'flagged' as the **primary** offence/incident and it will be the only incident counted in this series of continuous offences when compiling crime statistics. All other incidents in the continuous series of offences are 'flagged' as



Secondary offences/incidents and are not counted when compiling crime statistics.

- If the **value of the goods** is the **same** in all incidents then the Incident with the earliest occurred date is 'flagged' as the **primary offence/incident**. Once again all other incidents in the continuous series of offences are 'flagged' as secondary offences/incidents and are not counted when compiling crime statistics.
- If the **value of the goods** in **two or more** incidents are **equal** but **greater than** the others, then, of those particular incidents, the one with the **earliest occurred date** is 'flagged' as the **primary offence/incident**. Once again, all other incidents in the continuous series of offences are 'flagged' as secondary offences/incidents and are not counted when compiling crime statistics.

## 6. Process for recording and classifying crime on PULSE

While Gardaí may record incidents on PULSE themselves, most crime incidents are recorded through the Garda Information Services Centre (GISC). The Garda staff in GISC have been trained in the recording, classifying and updating of incidents on PULSE. The Reporting Member (i.e. a Garda who attends the scene, or if the scene has not been visited, a Garda who takes full particulars from the complainant) rings GISC and supplies the information required to record and classify an incident on PULSE.

Calls to the emergency services which require Garda intervention are recorded on the An Garda Síochána Computer Aided Dispatch System (CAD). A record which contains details of the initial call is created on the CAD system.

CAD reports are classified on the CAD system under particular categories (different from PULSE Incident Category/Types), depending on what is reported. Once the CAD incident has been updated to 'closed' by the Reporting Member (i.e. having concluded an initial investigation at the scene), the CAD system then sends a 'skeleton' incident to PULSE when the report falls within predefined CAD incident category types. (All crime-related CAD incident category types result in a skeleton incident being sent to PULSE). The skeleton incident contains the following details:

- The CAD narrative: This is a description of what was reported when the call was made to 999.
- Details of the Reporting Member.
- The local station (with responsibility for the investigation of the alleged crime).

The incident-creation process in PULSE provides for a CAD 'skeleton', if available, to be updated with details of what the Garda reports from having attended the scene.

If there is no CAD incident available, (e.g. the incident was not reported through the emergency service), the PULSE incident will still be created from the details obtained by the Reporting Member.

The description of the incident is recorded in the narrative field of the PULSE incident and the incident is classified on the basis of what it contains.

### 6.1 Elements which are recorded in a crime incident on PULSE

An Garda Síochána records particular information in each incident, which assists in the investigation of the crime. This includes:

- **Narrative:** This is the description of what has happened. It must contain sufficient detail to enable the incident to be classified.
- **Category and Incident Type:** The incident is classified based on the content of narrative.
- **Scene:** This is the location where the incident occurred.
- **Station:** In general this is the local station where the reported incident took place and which will have responsibility for the investigation of the incident. If the location of the incident cannot be determined, it is recorded against the Garda Sub-district within which it was reported. Criminal offences under Irish law that are committed abroad (such as those under the Sexual Offences (Jurisdiction) Act, 1996) are recorded against the Garda Sub-district in which it was reported<sup>10</sup>.
- **Date/Time** that the incident occurred.
- **Date/Time** that the incident was reported to An Garda Síochána.
- **Suspect:** The Suspect is recorded where known.
- **Injured Party:** The Injured Party is recorded where applicable.
- **Investigating Garda:** This is the Garda who has been assigned responsibility to investigate the crime.
- **Reporting Member:** This is the Garda who is reporting the incident.

### 6.2 Classification of Crime Incidents on PULSE

As outlined above, the narrative field of the incident contains the description of what has happened and the classification of the incident will be based on its content.

The incident is initially classified on the instruction of the Reporting Member. Once the incident is recorded on PULSE, it is systematically marked as requiring a data-quality check. The quality-check is carried out in GISC by a Data Quality Review Officer (Reviewer). Reviewers have been trained in the quality-checking of incidents.

Reviewers examine incidents and determine if they have been classified correctly. They also ensure that all the required elements are present. An incident is reclassified by a Reviewer if the initial classification is deemed to be incorrect; and the rationale for a reclassification is recorded.

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<sup>10</sup> Refer also to A.6 at Appendix 1

### 6.3 Reclassification of incident category/type after initial classification

The initial classification of an incident may change for a number of reasons. These include:

- a) Quality-checks may reveal that an incident has been incorrectly classified.
- b) The information available since the initial recording of the incident may have changed, and a reclassification of the incident is hence required. For example an Assault Minor incident may be upgraded to Assault Causing Harm on receipt of a medical report on the nature of the injuries incurred.
- c) Reclassification may be required within the Homicide Incident Category:
  - Where a charge of Manslaughter rather than Murder is commenced: in this instance the incident will be reclassified from Murder to Manslaughter.
  - Where a murder charge results in a conviction for Manslaughter: similarly, in this instance, the incident will be reclassified from Murder to Manslaughter<sup>11</sup>.

An incident may also be reclassified following an application by the Superintendent responsible for managing the investigation to have the classification reviewed by GISC.

Superintendents examine incidents within their area of responsibility to ensure that incidents are classified correctly. There are occasions where the relevant Superintendent disagrees with the classification of an incident by GISC. In such circumstances the Superintendent may:

- Submit a formal request to GISC to have the classification of the incident reviewed.
- Supply the rationale behind the request, outlining the basis for disagreement with the current classification and proposing reclassification to another Incident Category/Type.

GISC then examines the classification of the incident having due regard to all information available. Once a decision has been reached, the relevant Superintendent is informed.

Following a GISC decision after the above process, if a Superintendent still disagrees with the incident classification, he/she can request to have the classification of the incident reviewed by the Executive Director, Legal & Compliance. The Executive Director is the final arbiter.

## 7 Invalidation of Crime incidents

Incidents which are recorded on PULSE may subsequently, in certain circumstances, be invalidated (i.e. the record is marked as not being a valid record and is not counted in crime statistics). In all instances, the reason for the incident being invalidated is recorded. An invalidation of an incident occurs for reasons such as the following:

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<sup>11</sup> Refer also to C.1 and C.2 at Appendix 1.

- The incident has been identified as being a duplicate of an incident(s) recorded on PULSE.
- The investigation has verified that no crime took place. For example a driver drives off from a petrol station without paying for petrol/diesel. However the driver later realises the mistake and returns and pays for the fuel before An Garda Síochána make contact in relation to the non-payment<sup>12</sup>.
- The incident was created in error.

## 8. Investigation of Crime

The Investigating Member and Nominated Supervisor are each recorded in all crime incidents.

### 8.1 Investigating Garda

The responsibilities of the Investigating Garda include, inter alia:

- Ensuring that all incidents are entered on PULSE in a timely manner.
- Ensuring that all matters reported are fully investigated and the progress of the investigation is recorded on PULSE
- Forwarding completed investigation files with recommendations to their Nominated Supervisor in a timely manner.

### 8.2 Nominated Supervisor

The responsibilities of the Nominated Supervisor include, inter alia:

- Monitoring and supervising all incidents where he/she is assigned as Nominated Supervisor.
- Ensuring the accuracy of an incident and that the incident has been correctly classified.
- Regularly reviewing the progress of investigations with the Investigating Gardaí under his/her responsibility.
- Ensure files are submitted by Investigating Gardaí in a timely manner.

### 8.3 Actions assigned and completed during the investigation process

PULSE contains a specific area in which actions assigned and completed during the investigation can be recorded.

The relevant Superintendent has responsibility for ensuring that investigations are completed in a timely and thorough manner. His/her supervisory process includes reviewing incidents at daily/weekly Performance and Accountability Framework (PAF) meetings where

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<sup>12</sup> Refer also to A.5 and A.7 at Appendix 1

outstanding investigations are included as items on the agenda. Management reports are available to support the supervisory function.

An Garda Síochána is in the process of a phased rollout of an Investigation Management System (IMS) so as to standardise practices in respect of investigation of incidents. It will be extended nationally in due course. It is a web-based system which supports the set-up, running, management and completion of all investigations conducted by An Garda Síochána. IMS will be used to support the standardisation, allocation and management of all jobs; provide an electronic record for all information and evidence gathered; and maintain full history of the chain of events through to the completion of an investigation.

#### 8.4 The Victim and the Investigation of Crime

While the goal of any investigation is to establish the facts of an incident and then initiate appropriate follow-up action, the needs of the victims of crime are central to any investigation. An Garda Síochána is conscious of its responsibilities in relation to victims of crime and has developed a Victims Charter to outline what the victims of crime can expect from An Garda Síochána. In addition, An Garda Síochána complies with its obligations to victims under the Criminal Justice (Victims of Crime) Act 2017, which implemented the EU Victims Directive into Irish law.

An enhancement to PULSE, which was carried out in November 2015, facilitates the recording of needs of any victim and the services being provided to them. It also provides a facility to record any discriminatory motives as identified by the Investigating Garda that were an influence in the incident occurring. The following discriminatory motives must be recorded when identified by the Investigating Garda.

- Ageism
- Anti-Disability
- Gender-related
- Homophobia
- Anti-Muslim
- Racism
- Anti-Roma
- Sectarian
- Anti-Semitism
- Transphobia
- Anti-Traveller

It must also be recorded that 'no known discriminatory motives' were identified where none of the above were identified as being relevant. Data Quality checks undertaken in GISC include checks to ensure that motives relevant to an incident are correctly recorded<sup>13</sup>.

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<sup>13</sup> Refer also to Section 10 – Quality Assurance of Crime Data recorded on PULSE

In support of victims, a Garda Victim Services Office is located in each Division. These offices are the relevant co-ordinating points of contact in every division.

## 9. When is a crime recorded as detected?

The Crime Counting Rules<sup>14</sup> state that a criminal offence can only be classified as detected for statistical purposes when one of the following are true:

- Criminal proceedings have been commenced against at least one person for the criminal offence;
- Approval has been granted for a child to be dealt with in accordance with the Garda Juvenile Diversion Programme;
- Additional specified grounds are applicable whereby a decision is made not to prosecute<sup>15</sup>.

There are also other forms of sanction in addition to those specified in the document at Appendix 1. These include the use of Adult Cautions, Informal Cautions and Fixed Charge Notices as alternatives to prosecution in appropriate circumstances, and these are considered to be valid detections.

Consequently, An Garda Síochána introduced enhanced functionality to PULSE in February 2018 in order to standardise how an incident is recorded as detected. Following the PULSE update, incidents are automatically recorded as detected through the following actions being completed on the PULSE system.

- A **Charge Sheet** for the criminal offence is preferred against a Suspect on an incident.
  - The generation of a charge results in the incident being automatically recorded as detected.
- A **Summons** in respect of the criminal offence is applied for against a Suspect on an incident.
  - The generation of a Summons against a Suspect in an incident automatically records an incident as detected in a manner similar to the Charge sheet.
- A **Fixed Charge Notice (FCN)** is issued against a Suspect on an incident.
  - The FCN and penalty points system was introduced under the provisions of the Road Traffic Act, 2002 and was extended in October 2011 to include drink driving and public order offences. The FCN system gives the offender the opportunity of paying a fine rather than going through the courts process. The highest volume offences dealt with by FCN are:
    - Speed
    - No Tax/Insurance Disk

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<sup>14</sup> See Appendix 1, Section D

<sup>15</sup> Refer to Section 9.1 below and also to D.4 of Appendix 1

- Seat Belt
- Mobile Phone
- Public Order

An FCN offence may be detected when a Garda encounters an offender at the time of the offence. It is at this stage that discretion is used by Gardaí on whether to issue an FCN or not.

In addition, traffic speeding offences may be detected by Speed Vans or Garda speed checkpoints. Many road traffic offences for which FCN applies are not recorded on PULSE unless and until the time allowed to pay the fine has passed. The offence is then recorded on PULSE in order to issue a summons as appropriate.

- A **Juvenile Caution** is delivered to a Suspect.

A Youth Diversion Programme is administered by An Garda Síochána. The programme is headed by a Director (Superintendent rank). The aim of the programme is to prevent children between the ages of 10 and 18 years of age from entering the Criminal Justice System by using the Diversion Programme as an alternative to prosecution. The intended outcome of the programme is to divert young people from committing further offences. In all cases where a child comes to the notice of An Garda Síochána because of their alleged criminal or anti-social behaviour, the Children Act 2001 as amended mandates that they are considered for the Diversion Programme first. This means that all children must be referred for consideration for admission to the programme.

It is the function of the Director to decide on the child's suitability for admission to the programme. To be considered for admission, the child must accept responsibility for the alleged offending behaviour, agree to be cautioned and, where appropriate, agree to the terms of supervision. The Director's decision on whether a child is suitable or not for admission to the Programme is based on a number of factors including the nature of the offence, the impact of the offence on the community, the views of the victim and the offending history of the young person.

- An **Adult Caution/Informal Caution** is administered to a Suspect on an incident.

An Adult Caution may be administered in certain circumstances where there is evidence that the person has committed the offence but the prosecution of the crime would not be in the public interest. It is administered by a Superintendent (or an Inspector acting for a Superintendent). The principal purpose is to divert from prosecution adults who are unlikely to reoffend.

The views of the victim also have to be considered. Importantly, Adult Cautions can only be considered for a range of minor offences including Public Order offences, Criminal Damage, Minor Assaults and Thefts (less than €1,000). The person must have admitted to the offence before an Adult Caution is delivered.

Administration of an Adult Caution usually takes place in a Garda Station. The nature of the offence is explained to the individual and the penalties that would have been

incurred if convicted in Court are also outlined so as to emphasise that a criminal offence has been committed.

The consequences of an Adult Caution being delivered are also outlined to the individual in that:

- This is not a conviction.
- The Adult Caution is recorded on PULSE
- It may be made known to the Court in the event of a conviction for another offence.

An Informal Caution is recorded where a Garda uses his/her discretion to issue an Informal Caution for an offence. The person receiving the Informal Caution is made aware that:

- The caution is being given on the basis that a previous history check on PULSE will not show a reason to issue court proceedings instead.
- The occurrence will be recorded on PULSE.

The issuing of an informal caution does not prevent a Garda from commencing proceedings if, following a review of the individual's history, the individual is deemed to be unsuitable for an informal caution.

### 9.1 Recording of incidents as detected where there is no resultant prosecution

An incident can be recorded as detected **where a decision has been taken not to prosecute**<sup>16</sup> for one of the following reasons:

- (a) There would be sufficient admissible evidence to charge but the victim or an essential witness refuses<sup>17</sup> or is permanently unable<sup>18</sup> 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.

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<sup>16</sup> See Appendix 1, section D.4

<sup>17</sup> 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 Garda in their notebook or other official record will be sufficient when a victim refuses to do either of the former.

<sup>18</sup> '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.



- (f) There is sufficient admissible evidence 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 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.

The above is the exhaustive list of exceptions in respect of which a detection may be claimed. Its use is strictly subject to certification by the relevant Superintendent prior to submission to GISC to be updated on PULSE.

## 9.2 Recording of Court Outcomes

Where the alleged perpetrator of a crime is prosecuted he/ she will be subject to the judicial process. The process will result in a Court Outcome which may be a conviction or non-conviction.

The key principles in respect of initiating criminal proceedings and subsequent conviction/non conviction include the following:

- Where Criminal proceedings are commenced it must be based on the threshold that when the evidence is given in court there is a reasonable probability that it will result in a conviction.
- If the individual is not subsequently convicted of the criminal offence, the District Officer carries out a review of all the circumstances. If he or she is still satisfied that there was a reasonable probability (despite the non-conviction), based on the supporting evidence, that the person charged committed the criminal offence, then the incident's detection status remains as detected.

On foot of the initiation of criminal proceedings, court outcomes are recorded on PULSE in the following manner.

- District Court Outcomes are recorded by the Court Services and sent electronically to PULSE.
- Court Outcomes from the Higher Courts are not transferred electronically to PULSE. It is the responsibility of the Prosecuting Garda to ensure that they are recorded. An Garda Síochána and the Courts Services are currently working to upgrade the interaction between the Court Services and An Garda Síochána with the aim that Higher Court Outcomes will be sent electronically to PULSE in a manner similar to District Court Outcomes.

The record of convictions recorded against an individual on PULSE is available to the Garda National Vetting Bureau when vetting applications are being processed.

## 10. Quality Assurance of Crime Data recorded on PULSE

Quality Assurance of the recording of Crime data is built around 3 main 'pillars'<sup>19</sup>:

Firstly, Incident Creation Representatives (ICRs) create most of the crime incidents on PULSE. The ICRs undergo a training regime which involves:

- Classroom training with experienced trainers
- Working alongside an experienced ICR after classroom training has been completed
- Prompt data-quality check for all incidents which are created when he/she begins to work alone, with feedback provided on any errors identified
- The above process is continued until he/she is deemed to have reached the required standard for incident-creation/update.
- Ongoing feedback from reviewers where errors are identified.

Secondly, Data Quality Checks are carried out in GISC by Data Quality Review Officers (Reviewers)

- When an incident is recorded on PULSE, it is systematically 'marked' as requiring a data-quality check. The quality-check is carried out in GISC by a Reviewer. Reviewers have been trained in the quality-checking of incidents.
- A Reviewer examines an incident and determines if it has been classified correctly. The Reviewer also ensures that all the required elements are present. The incident is reclassified by the Reviewer if the classification is deemed to be incorrect; and the rationale for the reclassification is recorded on PULSE.
- Clarification is sought within PULSE from the Reporting Garda where all the required elements of the incident have not been recorded or where there is insufficient information available to classify the incident.

Thirdly, the Performance Accountability Framework (PAF) includes, inter alia, the examination by local Garda management of incidents recorded on PULSE. One aspect of this work is local Garda management checking whether they agree with the classification of incidents. As outlined in Section 6.3 above, a District Officer who disagrees with a classification of an incident can request that GISC review that classification.

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<sup>19</sup> Refer also to Appendix 2 – Incident Recording and Reviewing Process Flow Chart

## Appendix 1 – General Crime Counting Rules<sup>20</sup>

### **A. Recording of 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 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.2 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>21</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.

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 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

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<sup>20</sup> This document is available at Annex 1 of the following link:

[http://www.justice.ie/en/JELR/Report\\_of\\_the\\_Expert\\_Group\\_on\\_Crime\\_Statistics\\_2017.pdf/Files/Report\\_of\\_the\\_Expert\\_Group\\_on\\_Crime\\_Statistics\\_2017.pdf](http://www.justice.ie/en/JELR/Report_of_the_Expert_Group_on_Crime_Statistics_2017.pdf/Files/Report_of_the_Expert_Group_on_Crime_Statistics_2017.pdf)

<sup>21</sup> Previous versions of Crime Counting Rules referred to a 'Headline Offence Rule', which was abolished as of 1<sup>st</sup> January 2009.

exceptions to the rule of one offence counting per victim. The exceptions to the rule 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 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 the 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. Reclassification 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.

**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 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 [D.2 above]) but the victim or an essential witness refuses\*<sup>22</sup> or is permanently unable<sup>#23</sup> 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 [D.2 above]) 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 [D.2 above]) 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.

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<sup>22</sup> \* 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 Garda in their notebook or other official record will be sufficient when a victim refuses to do either of the former.

<sup>23</sup> # 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.

## Appendix 2 – Relevant Process Flows within Performance and Accountability Framework (PAF)

