



UNITED NATIONS
Office on Drugs and Crime



POLICING

Crime Investigation

Criminal justice
assessment
toolkit

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UNITED NATIONS OFFICE ON DRUGS AND CRIME
Vienna

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UNITED NATIONS
New York, 2006

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This publication has not been formally edited.

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1. INTRODUCTION TO THE ISSUE

A fair and effective criminal justice system, an integral part of which is crime investigation builds public confidence and encourages respect for law and order. In essence, crime investigation is the process by which the perpetrator of a crime, or intended crime, is identified through the gathering of facts (or evidence) – although it may also involve an assessment of whether a crime has been committed in the first place. Investigation can be reactive, i.e. applied to crimes that have already taken place, or proactive, i.e. targeting a particular criminal or forestalling a criminal activity planned for the future.

There are two basic approaches to managing crime investigation. In some, typified by jurisdictions with a civil law tradition, the responsibility for an investigation is given to a prosecutor or judicial officer, such as a *juge d'instruction* or “investigating judge”. Where this is the case, investigators work under the instruction and management of the prosecutor and/or investigating judge and, indeed, there may even be a special law enforcement agency designated as “judicial police”. In the second approach, often found in jurisdictions with a common law tradition, investigations are conducted by the police more or less independently of prosecutors until the case, and the charged suspect, is handed over for prosecution in the courts. There are, however many variations within both basic systems. For example, in many common law jurisdictions, prosecutors work closely with police investigators for at least some types of crimes. No matter what the system, basic tenets remain the same: identifying who committed the criminal act and gathering sufficient evidence to ensure a conviction.

In many civil law models, there are often two phases described in the investigative process: the pre-investigation or intelligence phase and the investigation itself. Usually the police will be wholly responsible for the pre-investigation (which seeks to identify whether an offence has actually been committed and to gather basic information) after which a prosecutor will assume control. In the come countries, including those based on a common law model, there is no such phased approach; with the term “investigation” applying to the entire process beginning the moment in which a crime first comes to notice.

What constitutes an offence or crime can vary. Many countries categorise minor offences, such as speeding or using public transport without a ticket, as misdemeanours, with either a separate code or portion of the code devoted to these offences. Other countries consider these to be “administrative” in nature and they do not form part of the criminal code. Such offences are not then subject to criminal investigation, nor do they fall within the competence of a prosecutor, but are dealt with in lower level administrative tribunals. However, generally speaking, the definition of what constitutes a serious crime will be much the same, and recognisable, from country to country even though the specific detail may be different. For instance, the term “burglary” in one country may only refer to the entering of a building with an intent to steal. In others, the term may also include an intent to cause criminal damage or to commit rape, but the illegal act of entering of a premises with intent to commit a crime is common to all jurisdictions.

A further issue that should be considered is that limitations in time for which a person may be charged for a crime may apply; this sometimes called the “statute of limitations”. In some countries, even some very serious offences may not be prosecuted once the time limit set by law (i.e. the “limitation”) has expired. In other countries, however, especially for serious crimes, there may be no time limit set by law at all; a person may be charged years after the commission of a crime, where new evidence may come to light.

Whatever system of criminal investigation has developed or been adopted, there is a universal value that must be preserved in any criminal justice system: the premise that suspects are innocent until proven guilty. Investigators need to be certain that their suspicions are based on an objective evaluation of the facts and that they have not twisted the facts to suit their suspicions.

To conduct criminal investigations effectively, an investigator will need considerable powers. These include the power to:

- Detain a suspect;
- Seize property as evidence;
- Search for evidence, both in premises and on persons;
- Interview suspects (and, in doing so, question their honesty and character, which in some countries may otherwise be considered to be an act of defamation, a criminal offence);
- Require samples, such as fingerprints and DNA, and to take photographs;
- Run identification procedures;
- Interview witnesses, including victims;
- Ask members of the public questions;
- Keep and maintain personal and confidential information;
- Use technical and personal surveillance and use other intrusive means to observe persons;
- Work undercover (i.e. pretend to be someone else) or use informants;
- Protect and relocate witnesses;
- Undertake otherwise illegal activity, such as possess illegal substances, carry weapons, force entry to property, or monitor illegal internet traffic.

Increasingly an investigator also needs to be able to call on international assistance in order to track the activities of criminals across internationally borders. There are normally international organisations and bi-lateral agreements in existence that can offer support, but such facilities need to be accessible and viable for any investigator working at a local level.

In addition to developing an understanding of the strengths and weaknesses of a state's approach to the investigation of crime by police, the assessor should be able to identify opportunities for reform and development. Technical assistance in the area of police investigation in the context of a broader strategic framework may include work that will enhance the following:

- Drafting or amendment; implementation and monitoring of relevant legal framework, including Codes of Conduct and/or Criminal Procedure;
- Development of forensic science capacity;
- Enhancement of investigation skills and standards, especially in specialist areas, such as financial investigation, cyber-crime, interviewing techniques;
- Equipment and processes for proper and secure handling of evidence and exhibits;
- Enhancement of identification procedures, including use of photo-fit, photo identification, and identification parades;
- Rules, guidelines and training on use of covert surveillance and informants;
- Transmission of good practice in interviewing suspects; relevant guidelines and training materials.

2. OVERVIEW

2.1 STATISTICS

Please refer to **Cross-Cutting Issues: Criminal Justice Information** for guidance on gathering the key criminal justice statistical data that will help provide an overview of policing functions and performance as well as the overall capacity of the criminal justice system of the country being assessed.

The availability of statistics related to policing will vary greatly. Statistics will also be variable in their reliability and integrity.

In terms of crime statistics, this risk will be particularly high. Governments are naturally reluctant to expose themselves to criticism over law and order issues and may well seek to ameliorate the impact of crime figures by presenting them in a favourable light.

Normally police crime figures will be based on recorded crime, but the phenomenon of the underreporting of crime is well documented, although some governments attempt to sample and assess crime figures through independent research and can end up with different conclusions¹. Where a crime report is required, for instance, in order to claim on insurance, the tendency to report is higher than in neighbourhoods where crime is endemic and a victim “knows” that the police cannot “do” anything. Victims may also be reluctant to attract attention to a crime for a number of reasons. For instance, a financial institution may not wish to report a fraud because it could damage customer confidence, or the victim of a sexual assault may be frightened of the way in which he or she will be treated by the police or what friends and family will say if they find out.

Crime figures, therefore, often carry inherent inaccuracies. They are directly influenced by the readiness with which someone will report crime. They are also open to manipulation or misclassification (for instance, to what extent is damage to a house door to be categorised as criminal damage instead of an attempted burglary or housebreaking? How often is a mobile phone reported stolen, when in fact it was only lost?).

Often the person classifying the offence in a crime report is faced with a number of alternatives because the given facts can be interpreted in a number of different ways or because a series of distinct offences appear to be related to the same incident. Where a police commander is being challenged on his or her performance against the crime figures, the choice of a lesser offence for the crime report may end up being the more comfortable option.

The clear-up rate is the ratio between crime committed and crime considered solved or disposed of in some way. Clear up rates have traditionally been used as a measure of success for police services. Unfortunately, the statistics can be based on such a variety of criteria that making international comparisons is very difficult. In the first place, how is crime measured? Is it reported crime, an estimate of actual crime, or is it what investigators say it is? In the second place, when is a crime considered solved or cleared up? Does it happen when a suspect has been found guilty? Or when a suspect has been tried in court (a so-called “judicial disposal”)? Or when a convicted person has asked for a number of other offences to be taken into consideration when he or she is being sentenced? What happens if someone is found not guilty, but there are no clues implicating anyone else? In some countries, crimes have been counted as “cleared up” when an investigator decides there are no further leads to follow. Consequently, the capacity for massaging the figures is great.

Statistics on prisoners in custody are also difficult to interpret. Long periods between charge and court can mean an inefficient investigation, but can also indicate an over-burdened court system. Cases that eventually reach court only for the prosecution to offer no evidence can be the result of poor police work or a change of heart from a key witness or even because there has been a failure in notifying witnesses to attend.

Because of these types of issues, statistics provided by a government agency should, where possible, be validated against statistics from other sources, such as non-governmental organisations or international bodies.

- A. Are statistics compiled on crimes committed in the country concerned? What are the statistics actually measuring? Do they measure different types of offence? Are they cross-referenced for seriousness? What is the quoted clear-up/closure rate? What constitutes a “clear-up” (case closure)? Does this reflect how many of the crimes are actually solved or detected? How many of the cases resulted in conviction? Does the claimed success rate appear realistic? How does it compare to other countries with a similar demographic profile?

An analysis of the most significant types of crime reported (such as murder, serious assaults, robbery, burglary and drug supply), compared over five years, will suggest the types of crime most prevalent in the country concerned.

The UN Survey of Crime Trends and the Operation of Criminal Justice Systems' (www.unodc.org/unodc/crime_cicp_survey_seventh) is a valuable source of relevant comparative data. It has information on crime trends in 65 countries and can be used to compare the situation in countries of a similar size of population or profile to the country under review.

It is important not just to look at detection rates in isolation, but also to consider whether the number of criminal offences themselves have reduced over time.

- B. Are there figures available detailing and analysing the offences against solved crimes according to different cities, districts and regions? Are there any clear disparities or unusual examples of success or failure? Why?
- C. Are there figures available detailing performance in reducing and detecting crime across different policing agencies and/or specialist investigation teams? Are there any apparent anomalies or disparities? Why?
- D. How many court cases resulted in acquittals? Are there figures on how many of the acquittals were due to failures in police procedure?
- E. How many police are involved in crime investigations? What percentage is this of the entire police service personnel?
- F. On average, how many cases are investigators dealing with at any one time (i.e. the caseload)? What is the average "clear-up" per officer? How many of these cases reach court or have another form of formal disposal?

3. LEGAL AND REGULATORY FRAMEWORK

A well-developed legal framework that clearly stipulates and defines the roles and responsibilities involved in crime investigation is a pre-requisite for a criminal justice system that functions properly. Investigation is the gateway to the courts and unless it performs adequately, the quality of subsequent justice will be poor.

As mentioned above, there are two basic approaches to managing investigations. One is prosecutor/judge-led whilst the other is police-led. In both cases the techniques used will be essentially the same and both systems will include checks and balances as safeguards against abuse, but in one, key decisions will be referred to a prosecutor or judge, whilst in the other those decisions will be left mostly to the police hierarchy.

Because national parliaments tend to be overburdened with conflicting priorities, it is often the case that laws dealing with emerging issues in criminal justice are subject to delay. New initiatives may be prevented through the lack of political support and/or funding where they are considered in other countries to be a key component of the crime strategy (for instance, computer crime, evidential use of intercept (e.g. "wire-tap") material, or DNA databases). Ideas may also be rejected because of political realities on the ground (e.g. allowing "hot pursuit" across national frontiers is only feasible where the two countries concerned are involved in a dialogue at the political level). Conversely, governments may introduce, for political motives, legislation that is then impractical to implement because of the lack of resources.

Criminal offences will be described in criminal codes or statutes or possibly, less frequently, as a result of custom or "common law". In terms of assessing crime investigation these descriptions are only important insofar as they map the points for each offence that need to be proved in order to secure a conviction (an investigator (or prosecutor, or investigating judge) needs to ensure that each of them have been covered by evidence in the case file).

However, the assessor should also be aware that, sometimes, certain behaviour that would not be considered a crime elsewhere can be criminalised as a result of specific political, cultural and historical context. Such offences may include, for example, the unauthorised sale of tickets to a major soccer match; the denial of historical evidence of genocide; or insulting the memory and reputation of a country's national hero.

The regulatory framework for investigators will operate on three main levels: structure of the investigating services, national criminal procedure, and the powers available to investigators. The first will define who does what, the second what needs to be done, whilst the third will depict how far an investigator can go to do what must be done.

3.1 DEFINING CRIME

- A. Is there a code or series of laws or statutes that define and describe the behaviour and acts considered to be criminal? Do criminal justice professionals (and in particular the police) believe that the list is complete or are there important omissions? Do crime trends/statistics reveal that there are certain acts that occur on a regular basis but are not provided for by law?
- B. Has the Rome Statute of the International Criminal Court been signed and ratified? If so, has it been incorporated through domestic legislation? See, for example, pertinent laws in Canada and New Zealand. Is there any other domestic legislation concerning the definition of international crimes?
- C. Has the United Nations Convention on Transnational Organised Crime (UNTOC) been signed and ratified? Have its provisions been introduced into national law? Is any national definition of organised crime compatible with UNTOC? If not, where are the differences? What is the status of the additional protocols on trafficking persons, smuggling, firearms trafficking, etc.?
- D. Are there laws against money laundering? Do they provide for the seizure of assets, proceeds, and instrumentalities of crime? Does confiscation and seizure depend on conviction for another offence, i.e. so-called predicate offences, from which the proceeds have been acquired? Who benefits from confiscated assets?

- E. Is there a law against terrorism and terrorist acts? How is it defined? Is there a law of criminal association? How is that defined? Are criminal or terrorist groups defined and/or listed by name?
- F. Is there a federal political structure in place? Is there a federal system of criminal law? What brings a crime into the federal jurisdiction? Are there any crimes that are included in federal statutes, but not in local province or state law?

In some jurisdictions, the use of more intrusive police powers will depend on the seriousness of an offence. Seriousness, for instance, may be defined by reference to the potential penalties for that offence or because of other aggravating features. However, the level of seriousness can be clearly affected by context. For instance, the theft of a bicycle from someone who relies on it to earn his or her living is more serious than the theft of a Ferrari from a billionaire (For this reason some countries have laws that allow victims to make representations to the court before sentence).

- G. Does the law define a special category of crimes or give a list of aggravating features for ordinary crimes that allow the use of more intrusive investigation methods? Is there a definition of “seriousness” in terms of crime?
- H. Has the Government identified any priority crime areas? On what basis have these areas been chosen? Does their list reflect those crimes that cause the most harm? How do they know? Does this list create an imbalance in resource allocation? Are there sufficient resources to deal with other crimes?
- I. Is there a code on misdemeanours or are minor offences described in an administrative code?

3.2 LAWS ON CRIME INVESTIGATION

- A. Does a code, law, or other regulation establish the way in which criminal investigation should be conducted? How are the powers of investigators described in law? Is there a specific statute or are they described in a Criminal Procedure Law or Police Act? By virtue of these laws or regulations is an investigator able to do the following things:
 - Arrest and detain a suspect?
 - Seize property as evidence?
 - Search for evidence (both in premises and on persons)?
 - Interview suspects (and, in doing so, question their honesty and character, which in some countries may otherwise be considered to be an act of defamation, a criminal offence)?
 - Require samples (such as fingerprints and DNA) and to take photographs?
 - Run identification procedures?
 - Interview witnesses?
 - Ask members of the public questions?
 - Keep and maintain personal and confidential information?
 - Use technical and personal surveillance and use other intrusive means to observe persons?
 - Work undercover (i.e. pretend to be someone else) or use informants?
 - Protect and relocate witnesses?
 - Undertake otherwise illegal activity (such as possess illegal substances, carry weapons, force entry to property, or monitor illegal internet traffic)?
- B. What legal requirements are there, if any, restricting police powers to search private premises or a person? Is judicial/supervisory authorisation or voluntary permission required?

- C. Are members of the public under a legal obligation to report a criminal offence to the police? Are police obliged to investigate a crime once a report has been made? Are witnesses to an offence obliged in law to provide a statement to the police?
- D. What are the legal pre-conditions for the use of intrusive powers such as the interception of communications (including telephone, mail and e-mail)? Are there time limits for the use of such techniques? Is there independent oversight? Please see further the section on covert surveillance below.
- E. Is there specific legislation governing the use of informants?
- F. Is there legislation permitting the storage and retention of data for law enforcement purposes? Does it stipulate how that data should be stored and managed, particularly with regard to the retention of personal data, for example, criminal records, fingerprints, DNA, etc.? Does it set conditions on to whom that information may be forwarded?
- G. Are there time limits on the length of time a suspect may be detained before charge? Does this change depend on the alleged offence under investigation? Are there differences for juveniles or vulnerable victims? Is a suspect entitled to free and independent legal advice whilst in custody? Can a suspect be interviewed without legal representation (if the suspect consents)? How is this consent documented? Is there a code of practice on how interviews should be conducted?
- H. Is there special legislation concerning the investigation of crimes with international components?

4. INVESTIGATORS

4.1 INVESTIGATIVE AGENCIES / STAFF

- A. Who has responsibility for managing a criminal investigation? A prosecutor, an investigating judge, or a police officer? Is there a difference perceived between the pre-investigation (or “intelligence”) phase of a case and the investigation phase? If so, who manages the pre-investigation? How are investigations assigned to investigators? Are different categories of crime dealt with by specialists? Are there regular coordination meetings at a senior level between prosecutors and the police? Do case conferences take place? Who attends and chairs such meetings?
- B. Which organisations, agencies, or bodies are involved in criminal investigation? Is there a specialist crime police or do all police have an investigative capacity? Are they sub-divided according to specialist crime areas? Is there a judicial police? Is criminal investigation a centralised function, i.e. attached and managed by headquarters? Are there special units or departments dealing with organised crime? Or is there a regional and/or local capacity? If there is a federal system, how does the federal system of investigators complement that at the local (state) or provincial level? Are there non-police departments of the government that also have investigative powers, such as tax authorities, or an environmental protection agency? Do the rules on criminal procedure also apply to them?
- C. Is state security a responsibility of a police agency or is it a separate function? If it is separate, are investigations governed by the same rules as for police?
- D. Where peacekeepers are present, what is the relationship between the military and the civil structure? Do the military have any responsibility for investigating crime? Does

the law provide for an official initiation of investigation such as a written decision made by the prosecutor to officially open the investigation? If yes, why? What kinds of crime do they investigate?

- E. Is there a forensic science service? Does it have local laboratories accessible to all investigators or is it centralised? Do the laboratories submit to any system of accreditation? To what standards do they calibrate their instruments? Have they received advice or assistance from the UNODC Laboratory and Scientific Section? Are the forensic laboratories independent of the police? Do they undertake forensic examination for colleagues in neighbouring countries?
- F. Can the forensic science service or equivalent process fingerprints and DNA? Can they process drug samples? Can they process ballistics? Can they process chemical analysis? Are they able to process video and audio samples or evidence? Is there a facility for analysing computer hard disks or mobile telephone technology? Do members of the forensic science service think that they have the necessary equipment and facilities to undertake their role? Is there any shortfall in capacity to meet existing demand?
- G. Do forensic pathologists (medical examiners) work as part of the forensic science service or are they in a separate management structure? Are post mortem (autopsy) examinations conducted as part of a law enforcement process or are they civil procedures? What is the relationship between those leading an investigation and a forensic pathologist (medical examiner)?

4.2 SELECTION AND TRAINING

Successful investigators require a particular skill set and proper training is essential to provide an investigator both with knowledge of the relevant issues and an awareness of the special techniques involved.

In recognition of the fact that some types of crime require a deeper knowledge and understanding than others, for instance, white collar fraud or counterfeiting, most countries will have specially selected and trained experts who will take responsibility for cases in their area of expertise.

There are multiple options for training delivery available (and this is an area in which the UN can provide active support, expertise and mentoring). Training can take place in the workplace (e.g. through an apprenticeship type arrangement or mentoring), via interactive computer-based systems, or delivered through formal classroom instruction. Training strategies need to ensure that the right people are trained and that those who receive special (and often expensive) courses are likely to remain in post long enough to ensure adequate return on the training investment.

All training needs to be supplemented with training manuals, standard operating policy and procedures and *aides mémoire* that should be available for reference and consultation as and when the need arises.

As the laws themselves change, and because criminals continually seek out new methods to commit their crime, it is important that knowledge and skills are refreshed and enhanced at regular intervals with additional training.

- A. Are investigators recruited directly into the crime investigation department or are they selected from the ranks of non-specialised police officers? How are they selected? What qualifications does someone applying to be an investigator require? Are they selected on the basis of an objective assessment and selection procedure? Are there formal examinations or other assessments? Is there an equal opportunity (non-discrimination) policy in force? Do investigating staff appear to reflect the gender and ethnicity profile of the community? Are officers positively vetted for integrity?
- B. How are investigators selected for promotion or specialist postings? Are promotion and specialist vacancies openly advertised? Is this on the basis of an objective assessment and unbiased selection procedure? Who validates this procedure?

- C. How long does the initial training for an investigator last? What does it include? Are there training modules on:
- Laws and guidelines related to investigatory powers?
 - Crime scene preservation?
 - Forensic techniques?
 - Searching?
 - Interviewing?
 - Preparing case files?
 - Dealing with vulnerable people (such as victims and witnesses as well as suspects)?
 - Diversity?
 - Cultural competence?
- D. Are there comprehensive training manuals in these areas available for guidance? Are junior investigators mentored by an experienced officer? Is there refresher training? Are officers in specialist units provided with dedicated training for their specialist roles?

4.3 INVESTIGATIVE FACILITIES / EQUIPMENT

Investigators need to have certain basic facilities with which to work, but these must be reviewed in the light of the local socio-economic conditions. To obtain a representative view, an assessor should visit at least two (and preferably more) different investigators' offices in different locations and settings with contrasting levels of prosperity.

- A. Do investigators have office accommodation allocated to them? What is it like? Is the office furniture sufficient and serviceable? Is there lighting? Is the supervisor or manager of the investigators located in that accommodation or nearby? If prosecutors lead the investigation, are they co-located or do they have easy access to the investigators?
- B. Do the offices have lockable cabinets or cupboards in which confidential paperwork and equipment can be safely stored? Is access to these offices open to the public? Are there details of current operations and targets openly displayed? Are there computers? Are there typewriters? Are the computers used for word processing or are they for specialist databases or police information systems? Are there sufficient computers or typewriters for the number of investigators? Is there Internet access? Is there a steady and reliable source of electricity? Is there a back-up generator? Does the generator work? Is there sufficient fuel for it?
- C. Do investigators have access to unmarked vehicles? Is there sufficient fuel available? Are they equipped with radios or other communications?
- D. Are there suitable facilities nearby where victims can be medically assessed/examined? Are medical personnel involved trained and equipped to gather the necessary medical evidence, especially for victims of sexual assault or rape?

5. INVESTIGATING CRIME

Criminal investigation can be a complicated process and its management may be deeply complex. (A basic diagram of a generic reactive investigation is annexed to this document.) The basic components of crime investigation are reproduced in the subsection below, but this list is not exhaustive.

5.1 REPORTED CRIMES

As soon as a crime is reported, someone should review (or “screen”) the allegation together with any supporting facts and allocate sufficient resources to deal with it. This decision can be made more difficult where there are competing priorities and only limited resources to deal with them.

The commission of a crime can come to police notice in a number of different ways. Police may discover or witness an offence for themselves during the course of patrol or routine enquiries, or they may be alerted by the activation of an automatic system or alarm, but, usually, a member of the public (either the victim or another witness) will telephone or attend a police station to make a report.

The initial reporting of the crime and the action taken immediately thereafter are considered extremely important. Investigators often talk about the “golden hour” following an offence during which evidence is still fresh, forensic samples have not been contaminated, witnesses are still in the area and, often, so is the suspect.

- A. What happens when an allegation or complaint about a crime is made? Is it recorded immediately? By whom? Is there a set format for recording initial crime reports? Is it made on paper or on a computer? How is immediate action identified and managed? How does the person initially recording the crime report escalate the issue? Who has to be notified about the crime? Is it a senior officer and/or a prosecutor?
- B. What the time limits to notify a prosecutor, if any? In states where the prosecutor supervises the investigation, what are the powers of the police to act to investigate the offence within this time without prosecutorial direction, e.g. to interview witnesses at the scene of the crime? This should all be provided for in the criminal procedure code.

5.2 PROACTIVE INVESTIGATIONS

In recent years, a greater emphasis has been placed on proactive rather than reactive policing strategies. At its heart, proactive policing seeks to target prominent and emerging crime threats to reduce the harm they cause rather than respond to crimes after they have been committed and as when they are reported. In such cases, the methodologies for investigators remain the same, but the crimes to which they are applied are identified through research. Typically, a prominent crime figure will be the focus of a full analysis profile and then subjected to a series of initiatives until the threat caused by him or her is negated, for instance, because he or she has been brought to justice or because the means by which he or she commits crime have been removed. This strategy is particularly useful against organised crime and an early example can be found in the celebrated “Untouchables” investigation of Al Capone. The Mafia crime lord was completely insulated from his main criminal enterprise, but proved vulnerable in terms of tax evasion.

- A. Are teams of investigators deployed to investigate pre-identified targets (i.e. prominent criminals) rather than in response to crime reports? Do they use analysts and profiling to build a case against the target? If yes, how are targets chosen? How many targeted operations have been conducted? How many targeted operations have been successful? Where they have been unsuccessful, do the investigators involved have a theory as to why?
- B. Is there a local criminal intelligence cell or unit that collects, collates, and analyses information related to crime and criminals? Does it produce analyses and profiles on the criminal and crime problems being targeted? How is this used by investigators? Do investigators identify new targets or subjects for operations through such analysis?

5.3 INFORMATION / EVIDENCE GATHERING

The presumption of innocence requires that the person charged be considered innocent until the prosecutor, who has the burden of proving the guilt of the accused, proves that the person committed the criminal offence “beyond a reasonable doubt” (the standard of proof). In some systems, the standard of proof is different. It may be that the prosecutor has the burden of proving the accused committed the criminal offence to the “intimate conviction” (the intimate conviction) of the judge. Thus, in a system that operates rationally, the outcome of a criminal case will depend on the quality and the weight of the evidence. Evidence is, in simple terms, the pieces of information that, when taken together indicate whether a crime was committed and by whom. Where there is sufficient evidence to convince the trier of fact (judge or juror or assessor) that there is no reasonable doubt that the person charged is the person who committed the crime, that then the appropriate verdict is that of guilty. The rules of evidence vary from state to state. In some states, there are free rules of evidence that allow almost all evidence to be considered by the judge in making his or her determination (these rules usually apply when the trier of fact is a judge). Under these systems, the judge may have had access to the evidence before the trial and therefore there is not the same weight attached to “live evidence” of witnesses at trial.

In other legal systems, there are complex rules of evidence that contain both exclusionary rules and also hearsay rules. The former rules seek to remove evidence that was gathered in violation of the rights of the suspect or the accused. For example, as required by Article 15 of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, states must ensure that any statement which is established to have been made as a result of torture shall not be invoked in evidence in any proceedings, except where those proceedings are against the person accused of torture. The latter rules on “hearsay” evidence seek to exclude evidence, namely, a statement made outside of court. Many countries with exclusionary rules and rules against hearsay conduct criminal trials by way of jury. That said, given the mixing of different rules from different legal systems, exclusionary rules are being introduced to systems where there is no jury system and the case is adjudicated before a judge. An assessor should enquire into whether a judge or jury determines the guilt of the accused, whether a judge has access to the evidence in advance, whether there is a free system of evidence or whether there are strict hearsay rules. The assessor should also enquire into the existence of exclusionary rules.

The rules of evidence adopted by a justice system may preclude some types of information from being considered by the trier of fact because the evidence’s prejudice to the defendant (and its tendency to bias the trier of fact assessing the evidence) far outweighs its usefulness (probative value). An example of this is a prior criminal record, which may be allowed only where the crime committed is unique in pattern or another narrowly defined exception to the prohibition of the introduction of prior criminal history. Other types of evidence may be precluded because they are considered by some systems to be inherently unreliable, like hearsay (reports by others of what someone has said), though narrowly drawn exceptions to such evidence exist to allow the introduction of some statements like dying declarations, excited utterances, and statement made against one’s own interests.

Hearsay evidence is permissible in other systems, particularly where there is a professional judge, rather than a jury, adjudicating the case. The idea is that the judge is sufficiently competent to weigh the evidence and assign a probative value to it. Such rules do not exist in all countries, but it is important for the assessor to understand the influence of evidentiary rules or lack thereof on the investigative process. In that context, the importance of the thoroughness and care with which an investigator must assemble the information that comprises the evidence to overcome the burden of proof becomes self-evident.

- A. Following a report of crime, who decides whether to attend the scene of the alleged crime? What criteria does he or she apply? Are there statistics on how often a scene of crime is visited? On average, how long after a crime report is the scene of crime attended by general police? On average, how long after a crime report is made does an investigator attend the scene of crime? On average, how long after a crime report has been made does someone attend to examine the scene “forensically”, i.e. scientifically? Is this done by a specialist or by a normal officer? Does the forensic examiner work to the instructions of the person in charge of the investigation?
- B. Are all law enforcement officers, not just investigators, trained in crime scene preservation? Are they trained what to look for and how to protect evidence? Are they aware of potential cross-contamination issues? Are officers supplied with latex gloves or similar? Do they know how to bag, label, and record evidence and exhibits? In

major cases, is an officer designated to ensure continuity and preserve the integrity of evidence and exhibits (sometimes called the chain of evidence)? For further background, please see **POLICING: THE INTEGRITY AND ACCOUNTABILITY OF THE POLICE**.

- C. Is progress in an investigation recorded electronically or in a paper file? Who maintains these records? Are they updated regularly? Are all aspects of an investigation included or only those considered important? What happens to information or reports that the head of the investigation considers irrelevant or unimportant? Does the law require part or all material held by the prosecution to be disclosed to the defence? If so, how is this managed?
- D. Are there special arrangements and facilities in place to support the investigation into cases of:
- Organised crime?
 - Corruption?
 - Cyber-crime or “High-tech” crime (crime committed using computers or over the internet)?
 - Financial fraud and money laundering?
 - Counterfeit currency?
 - Intellectual property and counterfeit goods?
 - Hostage taking and Kidnapping?
 - Rape and sexual assault?
 - Crimes against children?
 - Domestic violence, i.e. violence against spouses, children, or elderly relatives?
 - Terrorism and terrorist acts?
- E. Is the victim kept informed of developments? How and by whom? Is there a victim/witness service unit or staff who work with crime victims and witnesses?

5.4 IDENTIFICATION

The entire investigative process is aimed at identifying the perpetrator of a crime, and a case will be greatly strengthened by good identification evidence. However, the procedures by which a suspect can be identified have to be strictly controlled in order to prevent miscarriages of justice. Suspects may already be known to the victim, in which case identification will not be an issue. More challenging are those situations where the suspect is a stranger to the victim. On these occasions, the suspect will be identified by forensic traces left at the scene, or because they have been seen by the victim or other witness, or because of they have confessed.

Eyewitness testimony can be influenced by many factors and has been found not to be as reliable as once thought. One of the chief difficulties is the way in which a police officer may inadvertently (or even deliberately) seek to influence a witness in their identification. Consequently, a number of practices have developed in order to present eyewitness identification in a form that is more objectively reliable. These include the use of books containing photographs of known criminals (“mug-shots” - often used when there is no known suspect), the use of photographic databases and, of course, the classic identification parade, also known as a line-up. In each of these procedures, care must be taken to ensure that the investigator does not signal a preference or indication as to whom he or she believes is responsible. The images in the photographs shown and those persons standing in a parade must be comparable to the suspect in terms of size, body shape, and ethnicity. A bad identification procedure can lead to unacceptable bias and to all resulting evidence being ruled inadmissible.

A further method for identifying a suspect can involve officers accompanying the victim or witness to the locality of the crime scene shortly after the offence has taken place or at similar times in the following weeks. This is done in the hope that the suspect may still be in the area (or normally frequents it) and that he or she will be picked out by the victim or witness. When a suspect has been identified in this way, any written description taken before the procedure can help to corroborate a positive sighting.

- A. Is a suspect’s description, where available, normally attached to the initial crime report?
- B. Do investigators have ledgers, files, or large books containing photographs of known criminals? How are these books organised? Are they classified according to physical

characteristics? Is there a procedure governing how they should be used? Are the contents updated on a regular basis?

- C. Do investigators have databases containing a number of photographic files that can be shown to a witness? Can these photographs be selected according to pre-set criteria? Is there a procedure governing how the photographs should be shown? Are the contents updated on a regular basis?
- D. Is a photo-fit kit available for making composite images of the suspects or are police artists available? How are such images and pictures used once they have been made?
- E. Are there established procedures in place for holding identification parades? Are the rights of the suspect protected by them? Is the identity of the witness protected? Are witnesses expected to be in the presence of the suspect when making the identification or can it be made, for instance, using CCTV or from behind a screen?
- F. What are the procedures in place concerning unidentified bodies? Which law-enforcement agency is responsible for that task? What equipment is used? Is there international cooperation in conducting such investigation (such as the publication of Interpol's Black Notice)? Do the same procedures apply for Disaster Victim Identification (DVI)? See, Interpol Manual on Disaster Victim Identification, available on Interpol's website at <http://www.interpol.com/Public/DisasterVictim/guide/default.asp>.

5.5 VICTIMS AND WITNESSES

PLEASE SEE ALSO CROSS-CUTTING ISSUES: VICTIMS AND WITNESS for further background.

- A. Are victims entitled to withdraw their allegations? What then happens to the case? Can victims be compelled to proceed? If yes, how often does this happen and in what kinds of cases?
- B. Are witnesses to a crime compelled by law to assist the police? Are witnesses paid expenses for appearing in court? Do they receive other payments? Are their identities concealed from the suspect? Is there a witness protection scheme available? Is there a witness relocation programme in place? How many persons have been relocated?
- C. Is it possible for vulnerable victims and witnesses to give evidence by video link or by way of pre-recorded evidence? If evidence is pre-recorded, does the defence have the right to always be present during the evidence giving in order to exercise the right of the accused to examine the witnesses against him or her?
- D. Are there formal or informal support services for victims and witnesses?

5.6 COVERT TECHNIQUES

Covert surveillance is a particularly intrusive method for collecting evidence. The use of covert surveillance measures involves a careful balancing of a suspect's right to privacy against the need to investigate serious criminality. Provisions on covert surveillance should fully take into account the rights of the suspect. There have been various decisions of international human rights bodies and courts on the permissibility of covert surveillance and the parameters of these measures. Reference should be made to these. An extensive discussion is contained in the commentary to Article 116 of the Model Code of Criminal Procedure (MCCP)(DRAFT, 30 May 2006). In those societies where the authorities exercise forceful control over the populations, the use of these techniques may be indiscriminate. Other systems will require a number of strict safeguards against abuse including the requirement that the offence be serious, that the use of the technique be vital to the case and that essential evidence cannot be secured by less intrusive means. Judicial or independent oversight is common and is required under international human rights law.

- A. Are investigators permitted to use covert investigation techniques including:
- Interception of telecommunications?
 - Interception of email traffic?
 - Interception of post/mail?
 - Use of listening devices?
 - Use of tracking devices?
 - Use of surveillance teams?
 - Use of photographic surveillance?
 - The use of false personal and company identities?
 - The use of informants?
 - Covert search of letters, packages, containers and parcels;
 - Simulated purchase of an item;
 - Simulation of a corruption offence;
 - Controlled delivery.
 - Covert real-time monitoring of financial transactions;
 - Disclosure of financial data. This measure is carried out through obtaining information from a bank or another financial institution on deposits, accounts or transactions.
 - Use of tracking and positioning devices.

See also **MCCP (DRAFT, 30 May 2006)** for a listing of covert measures.

- B. What are the preconditions for their use? Do these techniques require authorisation from a judicial or other independent source? What are the time limits on orders for covert surveillance? Does the law require that those implementing the order report to a judge on a weekly/monthly basis? Is their use monitored by an independent body? How is evidence obtained from these techniques presented in court? What are the arrangements made to destroy covert surveillance material that has not been used in an investigation? Should the person concerned be informed under the law? Can the person have access to the data? Are there rules precluding the covert recording of conversations between a suspect and his or her lawyer (as required under international human rights law)?
- C. Do investigators run undercover “buying” operations in which they pose as criminals? How often is this done? In what kinds of cases is it allowed? Is there a legal concept of entrapment (by which a law enforcement body encourages someone to commit a criminal act)? How does a court deal with such a situation?

5.7 INFORMANTS

Working with informants is a critical area of activity for the police. Anyone can give information to the police, but the term “informant” means someone who does so on a regular or structured basis.

On the one hand, the information provided by informants can be vital (and sometimes the only way) to prevent or solve a crime, but many informants are themselves criminals seeking to exploit the criminal justice system and to subvert police officers. It is, therefore, important to examine the systems employed for using, managing, and supervising informants and any payments made to them. Are the staff recruiting and meeting with informants properly trained? Are detailed records kept? Moreover, is there evidence of a risk assessment being made before they are deployed or their information is used?

Examples of abuse may include informants using police action to remove criminal competition, police using violence to intimidate informants, police using informants to fabricate a case against a suspect and police sharing any reward or payment made to an informant. Police have also been known to invent a “phantom” informant and to sell “information” to the police service gleaned from the media. For this reason, separating the handler from the payment process is desirable. In any case, close personal relationships between handlers and informants need to be discouraged.

For further information on issues associated with managing informants, please see **Section 5.7, POLICING: THE INTEGRITY AND ACCOUNTABILITY OF THE POLICE**.

- A. How are informants managed? Are their details registered in a confidential file? Are the personal details of informants only known to those dealing with them? Is there a senior officer with responsibility for supervision of informant handling? Is there a specialised informant-handling unit? Is there a special training in the use of informants? Are all investigators permitted to run informants or is it only permitted to specially selected officers?
- B. Is the identity of informants protected when giving testimony in court? How? Is it possible to place informant's evidence before the court without the informant giving evidence in person?
- C. How are informants paid? Are they paid by results or depending on the amount of information they provide? Is the investigator handling the informant involved in making the payment or is it done separately?

5.8 DATABASES

Information is the mainstay of crime investigation and although many countries will not have introduced computer databases, similar results can still be achieved through careful and accurate filing of paper files or index cards. The difference will normally be seen in the physical size of the file, the skills of the librarian and the speed of retrieval. Computer databases represent a significant investment that is often underestimated. Hardware can soon become obsolete and software licences require regular and expensive subscriptions. However, there are important benefits to be had in terms of managing volume data that would soon become otherwise unmanageable.

The main risk factor in both paper and electronic files is poor information management. Records may not have been properly completed in the first place or cross-referenced and inaccurate data entries or so-called "key-in" errors (typing mistakes) can mean not only that searches are incomplete, but also that false matches are made. As time goes by information may become dangerously out of date or incomplete (a significant risk factor where dangerous criminals are involved). Poor security protocols can mean that the data may not be secure from unauthorised access or tampering. All these risks can be offset by proper protocols, but they must be effectively applied, enforced, and supervised.

The questions below refer to electronic databases, but apply equally to paper based filing systems. For further information, please see **POLICING: POLICE INFORMATION AND INTELLIGENCE SYSTEMS**.

- A. Is there a crime reporting system in place? Does it contain suspect descriptions? Does it contain details of stolen property? Is there an efficient search engine? Is it accessible by investigators at local, regional, and national level? Are investigators responsible for updating the information? Do investigators cross-reference their active cases with historical cases?
- B. Is there a database on criminal convictions? Does that database include cross-referenced personal data on the offender including his or her name (and aliases), date of birth, gender, ethnicity, height, address, and distinguishing marks (tattoos or scars)? Is this information available to and searchable by investigators? How long does information take to be entered or filed in this system? Is there a time limit on how long it is stored? Can investigators at local, regional, and national level search it either directly or indirectly?
- C. Is there a database on fingerprints? How many files does it contain? For what reasons can someone's fingerprints be held? Is there an Automatic Fingerprint Identification System (AFIS)? Are speculative searches run against crime scene fingerprints? What powers do investigators have to require a person to give fingerprints?
- D. Is there a DNA database? How many entries does it contain? Does the country contribute to the Interpol DNA database? Are speculative searches run against crime scene DNA specimens? What powers do investigators have to require DNA samples?

Can investigators submit DNA for comparison against the database? How long does it take?

- E. Are other forms of biometric data held? If yes, what kinds and how are they stored? For what are they used?
- F. Is there a ballistic and explosives database? What does it contain? How many entries does it have? Are all registered firearms tested and entered into the database? Are speculative searches run against weapons and ammunition involved in crime? Can investigators request comparisons against the database? How long does it take?
- G. Is there a database on modus operandi? What information does it contain? Do investigators submit information for inclusion in the database? Are investigators at the local, regional, and national level able to search the database directly or indirectly?
- H. Are there electronic file management systems available for managing major investigations, e.g. Holmes2? Are there sufficient staff trained to use such systems? How often are they used?
- I. Is there a criminal intelligence (computerised) system? Is information logged and entered according to standard formats? Is the information assessed according to the reliability of its source? Is the information supervised and monitored to ensure integrity? Do investigators have access directly or indirectly to this data? Does the system allow for a hierarchy of access so that information is available on a “need to know” basis, i.e. only by those who need to know it in order to do their job?
- J. Where computer systems are in place, how reliable is the technical infrastructure? Is there significant “down time” when the information cannot be accessed due to technical failure?
- K. Is access to all databases protected by a personal password and/or additional security measures? Are confidential databases accessible only on stand-alone machines, i.e. not connected to the internet or intranet? Are there precautions against unauthorised copying of information, including such basic measures as sealing a floppy disk drive, disabling CD write software, and blocking the USB ports? Is every attempt at access logged against the user’s name, the date and time of access? Is strong anti-virus software used? Where information is sent out of the building, are secure lines with encryption devices used?
- L. Can investigators obtain telephone subscriber information? Can investigators obtain itemised call records for landline and mobile telephones? Can investigators obtain records of bank accounts and banking transactions? Does a request for this information require judicial oversight, such as a court order?
- M. Are there investigators trained in financial investigation? Is this expertise available locally? How often are the financial affairs of a suspect investigated in addition to any obvious criminal offence?
- N. How often are the computers belonging to suspects seized? Are their computer hard disks forensically examined? Is this expertise available locally or can investigators request such assistance?

5.9 INTERVIEWING

There are two basic types of interview conducted by the investigator: victim/witness interviews and interviews with suspects. The approach will be somewhat different.

Usually an investigator will need only to encourage a witness or victim to remember what happened and when (although sometimes, of course, a witness may not want to cooperate or may be concealing something).

On the other hand, suspects will normally be trying to avoid giving truthful answers to an investigator's questions and therefore, by implication, such interviews are more adversarial. Good practice and a respect for human rights, as well as the professionalism of the interviewer, should prevent suspect interviews from becoming violent, but there may be places in which severe interrogation techniques are tolerated, or even encouraged, and may involve the use of torture. Such practices are unacceptable and illegal under international law, standards, and norms.

Experience has shown that the conditions under which suspects make confessions or admissions can be related to their treatment in custody before the confession or admission has been made² This may be because of the threat or direct use of violence, i.e. torture, because of other indirect intimidation or menacing behaviour on the part of the interviewers or because the experience is otherwise physically or mentally distressing for the interviewee. People in police interviews are normally anxious and find themselves in an unequal dynamic in favour of the interviewer(s). There is ample evidence to show that certain people are predisposed to answering police questions in any way that will help to shorten the interview and some will wrongly confess to offences they did not commit. In some countries, this risk of a "false" confession is perceived to be so great that confessions of guilt made solely to a police officer are not admissible in court.

- A. Do investigators receive special training in interview techniques? What does it consist of? How many hours or days of training do they receive?

5.9.1 Suspects

- A. Are there guidelines or codes of practice on interviewing suspects? Do these guidelines or codes reflect international standards? See, for example, **UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment**, **UN Code of Conduct for Law Enforcement Officials**; **Universal Declaration of Human Rights**. How many investigators are normally present at an interview? How long may an interview last without a break? Are suspects allowed to take breaks or rest? Are simultaneous notes/transcript made of what is said? Is the suspect offered the chance to endorse the simultaneous notes/transcript? Is the interview audio- or videotaped? Is physical contact between the interview and the suspect prohibited?
- B. Are suspects entitled not to answer questions? Is there a right against self-incrimination? If so, do the investigators advise the suspect his or her right to have independent legal advice during interview? Is the right honoured in practice? Are interpreting and translation facilities available? What happens if a suspect cannot speak the same language as the investigators?
- C. Are investigators aware of the risks of interviewing vulnerable persons? Is the right of juveniles and vulnerable persons the right to have an adult present to advise/assist them honoured?
- D. Are there separate interview rooms? How are they equipped? How are they arranged? Where is the suspect placed in relation to the interviewers? Is there recording equipment? Can the interviews be observed from outside (e.g. through a peephole or two-way mirror)? Is there a panic button or other system by which emergency help may be summoned?
- E. Are polygraphs used? Are polygraph technicians properly accredited? Are the results of polygraph tests admissible in court or are they only "presumptive" (i.e. indicative and requiring more substantive evidence for corroboration)?

- F. Are confessions of guilt made by a suspect to a police officer admissible in court? If not, when are they admissible? Are interview transcripts or simultaneous notes admissible in court? Is a formal written statement from the suspect required? If yes, who writes it? Does the suspect have the chance to read and sign the statement? What happens if the suspect is illiterate?
- G. Following conviction, do investigators routinely visit the convicted person and ask for information on other matters? Do they ask for information about other criminal activity of which the person is aware, but not directly involved?

The concept of post-conviction visits has been controversial. While an extremely effective method of acquiring information and intelligence, it can also be abused by investigators pressuring a suspect into confessing to crimes he or she did not commit so that they can “clear up” cases for which they are responsible.

- H. Is there a system of “plea bargaining” (plea negotiation) in place by which a suspect may plead guilty to a less serious charge or agree to a guaranteed sentence before pleading guilty? Who is authorized to make such an offer?

5.9.2 Victims & Witnesses

- A. What are the rules for the interviewing of victims and witnesses? Does the interviewer inform the witness of his or her right to freedom from self-incrimination during the interview? Does a witness have the right to have a lawyer present during the interview? If the witness is a child, does the law require that his or her parent, guardian or other responsible person is present? How are interviews recorded, e.g. audio- or video-recorded, transcribed or summarized?
- B. Are there rooms available for interviewing witnesses and victims? Are they separate from the cell/detention area? Do investigators know about and/or practice “cognitive interviewing” techniques (i.e. psychological techniques used to help someone remember)? Are there investigators who have been specially trained to interview children or vulnerable people? Are such interviews video taped? Is the videotape admissible in evidence?
- C. Are investigators designated as liaison officers to support visitors and families in cases of a sensitive and emotional nature? What training do they receive?
- D. Who takes a witness or victim statement? Does the victim or witness have the opportunity to read his or her statement and certify that each page is accurate? What happens when the witness or victim speaks cannot speak the same language? What happens where the witness or victim is illiterate? Do witnesses and victims have to provide their full contact details? Are they included in the witness statement? Are witness or victim statements included in the trial case file?

5.10 USE OF MEDIA

The media have been used to good effect in solving major crimes and in prompting new witnesses to come forward. Sometimes this has been achieved through appeals broadcast over a radio network or through partnership in a television programme. Police services have also been known to use news conferences in a similar way. The modern mass media can be a strong tool for mobilising public response, but there are dangers in terms of the extent of detail the media can demand.

The media can be a double-edged sword. An investigative reporter may have access to sources and witnesses who would be reluctant to talk to the authorities. On the other hand, journalists have been known to interfere with criminal investigations and disrupt court cases through injudicious campaigns and editorials.

The use of anonymous police hotlines has also been effective as a way of reaching out to the public.

- A. What use is made of the media in asking for help from the public? Are there examples where appeals for information have led to a case being solved?
- B. Is the person in charge of an investigation permitted to approach the media directly or is further permission required?
- C. Are there anonymous police hotlines available by which members of the public can submit information? How are these advertised? Who monitors and distributes the information received? Are rewards available for information? What are the criteria for payments?

5.11 INTERNATIONAL COOPERATION

- A. Who manages cases that involve an international dimension? Are investigators generally aware of the different international law enforcement organisations and what they offer? Are investigators aware of how to request assistance from law enforcement and judicial authorities in other countries?
- B. What international law enforcement bodies are present in the country? Are there liaison officers from other countries also present? Can investigators make requests to these organisations or officers directly? Do investigators have access to the databases of these organizations (such as Interpol's fingerprints or DNA database)? If so, is this access enables direct and in real time connection via secured telecommunication systems (such as Interpol's I-24/7)? Are investigators aware of the Interpol's Notice system?
- C. Is the country party to any international agreement concerning international police co-operation (for example, a bilateral agreement based on Interpol's Model (Bilateral) Police Co-operation Agreement)?
- D. Who deals with Letters of Request (“Rogatory Letters” or “Commissions Rogatoire”) for international assistance? Who is responsible for receiving and issuing such requests for mutual legal assistance? Do investigators know this? On average, how long does it take a Letter of Request to be issued?
- E. How are Letters of Request received from other countries processed and dealt with? How long, on average, does it take for a Letter of Request from another country to be answered and the requested action undertaken?
- F. Do investigators work with officers from other countries on combined operations? Is the concept of “controlled delivery”³ known to investigators?

- G. If there are peacekeeping forces present, on what basis do military and police investigators cooperate? Who has jurisdiction over crimes committed by peacekeepers?

5.12 PREPARING FOR CHARGE AND TRIAL

The result of a successful investigation will be the appearance of the suspect before the court, but for the success to be complete, the court needs to be made fully aware of the weight of evidence against the defendant. The case file represents the sum total of that evidence.

The assessor may consider reviewing one or more case files (linguistic skills permitting) to see how they are structured and what they contain.

- A. Who prepares the case file? Does a case file usually contain:
- The initial report of the allegation or the crime report?
 - Official initiation of investigation?
 - Summary of the case?
 - List of any exhibits?
 - Notes from the officers who first attended the scene?
 - Victim's statement?
 - Statements from the witnesses?
 - Lists or statements of property involved?
 - Details of any criminal history of the suspect and or the witnesses?
 - Any results of forensic or medical evidence?
 - Written statement of charge or draft charge?
 - Motion and applications that the prosecutor/police investigator has filed with the court?
 - Court orders/warrants and associated rulings that may accompany them?
- B. Is the preparation of this file supervised for quality assurance? By whom? If there is a distinction between a "pre-investigation" and "investigation" phase, is the case or evidence file amended from one stage to another? Does the prosecutor or judge see all information in police files? If not, why not? Is there a rule on disclosing the evidence to the defendant or suspect? What information is not disclosed? Are witness and victim details given to the defendant? If an investigator discovers something that tends to exonerate a suspect, is this disclosed to that suspect? How often are case files returned to investigators because additional work is required?
- C. Is there a case management system in place? Are there structured ways of filing and categorising the volume of information in a serious or major investigation?
- D. Are there guidelines on the standards of evidence required for charging someone with a criminal offence? Who considers the evidence and decides on the appropriate charges? Is an investigator designated as the responsible "officer in the case" for cases that go to trial? Does he or she attend the court hearings to assist the prosecution?
- E. Are there alternatives to charge and formal court proceedings available? What are they? Who decides whether they are appropriate? Who offers them?
- F. Are there cases where investigators and their families have been threatened or intimidated in order to prevent further investigation of a case?

6. PARTNERSHIPS AND COORDINATION

6.1 PARTNERSHIPS

The investigation of crime is a challenge for the whole community and involving other agencies helps to bring an additional dimension to the response. Engaging other agencies is not, however, always easy. Organisations and agencies are sometimes reluctant to help law enforcement because they feel they might alienate their constituents, because their priorities may be different, because the resources may not be available, or even because there are legal constraints (for instance in the case of data protection).

- A. How do these work? Do investigators have protocols enabling cooperation and information exchange with other criminal justice agencies, (such as the prisons service, customs and immigration agencies? Are there protocols in place allowing cooperation with other public institutions like local hospitals, municipal offices, and the tax authorities? Are organisations in the public sector required to assist and facilitate police investigations?
- B. In countries with a federal system, how do investigators cooperate with federal law enforcement officers? Are there clear agreements or protocols that define the respective jurisdictions? How often do they combine their investigations? Who has precedence? How often do federal investigators take over investigations started at the local, provincial, or state level?
- C. How do private security companies work with investigators?
- D. Do multi-agency teams exist that have been tasked with addressing a particular crime problem? Who manages the team? Have the teams been considered a success?
- E. Do Bank Secrecy Laws permit the supply of information to police agencies at the request of investigators?

6.2 DONOR COORDINATION

Being aware of the activities of donors in the areas of crime investigation will prevent unnecessary duplication and allow coordination of initiatives.

- A. Are there (or have there been) internationally funded initiatives aimed at developing crime investigation? What are the objectives of these projects? Are they being achieved? Is there evidence of duplication? Is there any coordination of the implementation of these initiatives? Are mechanisms in place that will ensure sustainability of any sponsored activity? Which countries or organisations are involved? What mentoring mechanisms are there in place? Are any stakeholders and/or donors obvious by their absence?
- B. Do (or did) these initiatives offer training? If so, are they training trainers to deliver cascade-training programmes or are they focusing on individuals? Is a system of computer-based training being offered?
- C. Do (or did) these initiatives provide equipment? If so, was the need for this equipment identified through an independent evaluation or was it the result of a government list? Are other donors providing the same or similar equipment? Are there plans for how the equipment will be maintained and replaced? Are there examples of the same or similar equipment being provided and then being misappropriated or not being used at all?

- D. In respect of these initiatives were any post-implementation reviews conducted that may have helped to identify good practice for replication elsewhere? Are the results of such initiatives collated and coordinated to inform future planning?

¹ See for example the British Crime Survey (www.statistics.gov.uk/ssd/surveys/british_crime_survey)

² Before the Police and Criminal Evidence Act (1984) introduced strict rules on the treatment and interviewing of suspects in England and Wales, convictions based on confessions and admissions exceeded 60% of all convictions. Afterwards it dropped to between 40% and 50% G Gudjonsson, G (1992) *The Psychology of Interrogations, Confessions and Testimony*, John Wiley & Sons, p. 81

³ A controlled delivery is where an illegal shipment of contraband is allowed to travel across international borders until it reaches its final destination. At all times the shipment remains under the constant surveillance of law enforcement officers

ANNEX A. KEY DOCUMENTS

UNITED NATIONS

- Convention against Transnational Organised Crime (UNTOC), (2000) and its related protocols on Trafficking in Persons, Smuggling in Persons and the Illicit Manufacture of Firearms and Ammunition (outlining important investigatory measures when tackling serious and organised crime);
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Convention against Corruption
- Single Convention on Narcotic Drugs
- Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances
- Convention on Psychotropic Drugs
- The Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice, 2006, which contains source documents on crime prevention and criminal justice, and Human Rights texts including:
 - Declaration on the Protection of All Persons from Being Subjected to Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 1975.
 - Minimum Rules for Non-Custodial Measures (Tokyo Rules).
 - Basic Principles on the Role of Lawyers
 - Guidelines on the Role of Prosecutors
 - United Nations Standards Minimum Rules for the Administration of Juvenile justice (Beijing Rules).
 - Code of Conduct for Law Enforcement Officials
 - United Nations Rules for the Protection of Juveniles Deprived of Their liberty.
 - Declaration of Basic Principles of justice for victims of crime and abuse of power (
 - Guidelines for Child Victims and Witnesses
 - Declaration on the Elimination of Violence against Women
 - Declaration on the Protection of All Persons from Enforced Disappearance
 - Declaration on the Rights of the Child
 - Standard Minimum Rules for the Administration of Juvenile Justice
- United Nations Survey of Crime Trends and the Operation of Criminal Justice Systems

DRAFT

- Model Police Act
- Model Code of Criminal Procedure (especially Parts 4 and 5)
- Model Criminal Code

PLEASE NOTE: *The Model Police Act (MPA), the Model Code of Criminal Procedure (MCCP), and the Model Criminal Code (MCC) are being cited as models of codes that fully integrate international standards and norms. At the time of publication, the MPA, the MCCP, and the MCC were still in DRAFT form and were being finalised. Assessors wishing to cite the MPA, the MCCP, and the MCC with accuracy should check the following websites to determine whether the finalised Codes have been issued and to obtain the finalised text, as referenced Articles or their numbers may have been added, deleted, moved, or changed:*

<http://www.usip.org/ruleoflaw/index.html>

or http://www.nuigalway.ie/human_rights/Projects/model_codes.html.

The electronic version of the Criminal Justice Assessment Toolkit will be updated upon the issuance of the finalised codes.

REGIONAL

- Council of Europe Criminal Law Convention on Corruption
- Inter-American Convention on Corruption
- OECD Convention on Corruption of Public Officials
- Council of Europe Convention on the Laundering, Search, Seizure and Confiscation of the Proceeds of Crime
- Economic Community of West African States Convention on Extradition

- European Convention on Extradition and its additional protocols
- Arab League Convention on Mutual Legal Assistance in Criminal Matters
- Convention on Mutual Legal Assistance in Criminal Matters between Member States of the European Union
- European Convention on Mutual Legal Assistance in Criminal Matters and its additional protocols
- Inter-American Convention on Mutual Legal Assistance and Optional Protocol Thereto
- Arab Convention for the Suppression of Terrorism
- Inter-American Convention against Terrorism
- OAU Convention on the Prevention and Combating of Terrorism

OTHER USEFUL SOURCES

- www.ohchr.org/english/law/
- The British Crime Survey (www.statistic.gov.uk/ssd/surveys/british_crime_survey)
- www.interpol.org
- European Network of Forensic Science Institutes (ENFSI) www.enfsi.org
- Fraser Sampson, et al (2006) “Blackstone’s Police Investigator’s Manual and Workbook”, Oxford University Press

NATIONAL

- Criminal Code
- Criminal Procedure Code
- Other sources of criminal law
- Standard operating procedure, implementing/clarifying regulations
- Police training manuals and course materials

ANNEX B. ASSESSOR'S GUIDE / CHECKLIST

The following table is designed to assist the assessor in keeping track of what topics have been covered, with what sources, and with whom.

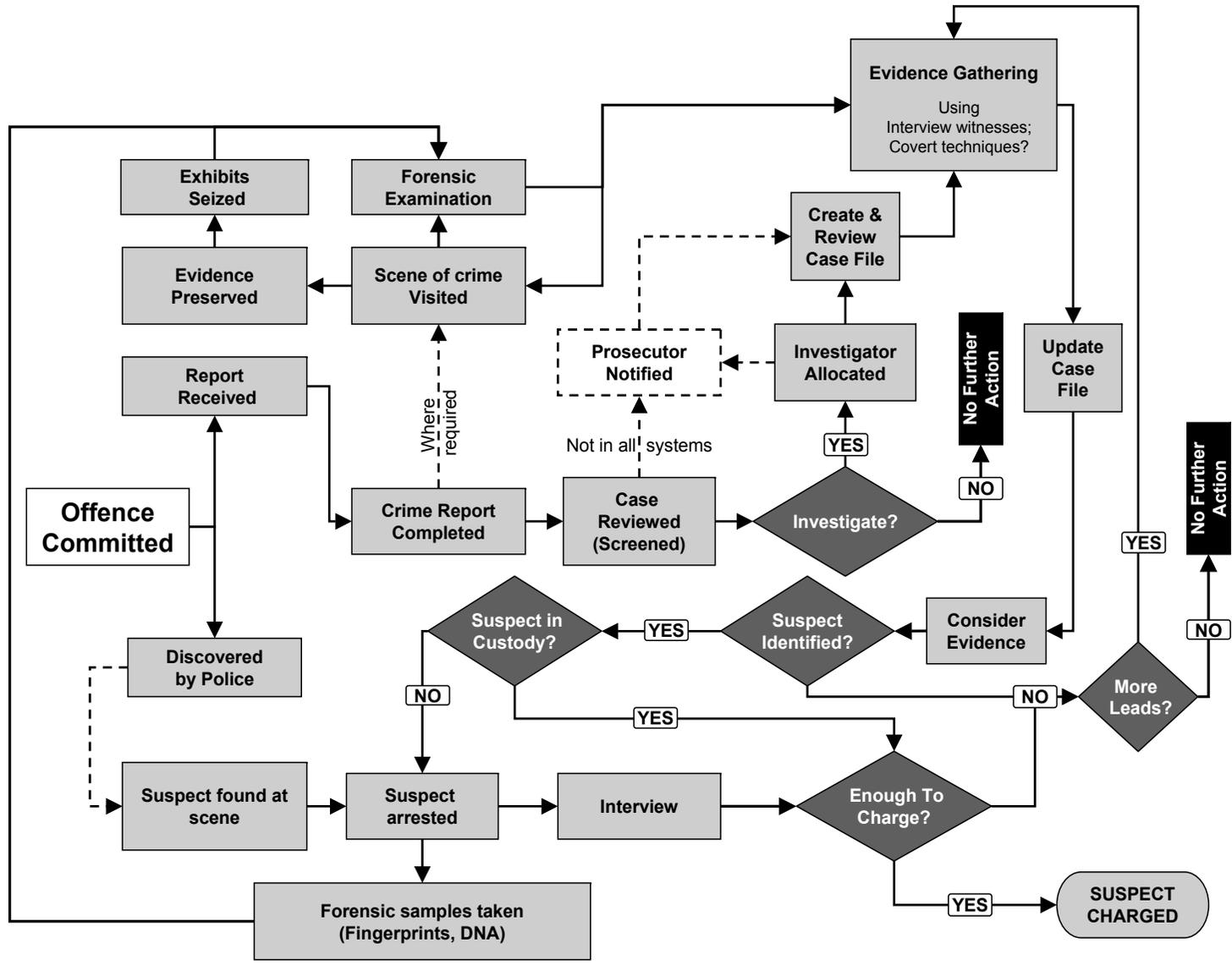
	TOPIC	SOURCES	CONTACTS	COMPLETED
2.1	STATISTICS	<ul style="list-style-type: none"> ▪ Ministry of Interior Reports ▪ Ministry of Justice Reports ▪ Ministerial Websites ▪ National & local Crime Statistics ▪ NGO Reports ▪ UN Regional & Country Analyses 	<ul style="list-style-type: none"> ▪ Any Office of National Statistics 	
3.1	DEFINING CRIME	<ul style="list-style-type: none"> ▪ Government department such as the Ministry of Justice or Ministry of the Interior; ▪ Government websites (especially for police) ▪ UN Convention on Transnational Organised Crime ▪ Police agency's publicity literature ▪ The internet can be a valuable source of national legislation (e.g. www.wings.buffalo.edu/law/bclc/resource); ▪ Global Legal Information Network www.glin.gov ▪ www.interpol.org ▪ Criminal Code or Statutes ▪ Code of Criminal Procedures ▪ Police Law 	<ul style="list-style-type: none"> ▪ Government Minister responsible for Justice and/or Internal Affairs; ▪ Representative from the government's legislative drafting department; ▪ State Prosecutor, Attorney General or Director of Public Prosecution; ▪ Policing agency's legal department ▪ Representative of local criminal bar association 	
3.2	LAWS ON CRIME INVESTIGATION	<ul style="list-style-type: none"> ▪ Investigators Manual or Handbook 		
4.1	INVESTIGATIVE AGENCIES AND STAFF	<ul style="list-style-type: none"> ▪ National crime strategy ▪ Protocols on cooperation and information exchange between law enforcement ▪ Organisational Charts ▪ Visits to investigative bodies ▪ Visits to National Forensic science laboratory ▪ UNODC Laboratory and Scientific Section 	<ul style="list-style-type: none"> ▪ Head of investigation ▪ Representative from any investigative bodies ▪ Prosecutors ▪ Forensic scientists 	
4.2	SELECTION & TRAINING	<ul style="list-style-type: none"> ▪ Job descriptions ▪ Selection procedure materials ▪ Any selection panel score-sheets ▪ Training manuals & material ▪ Visit to police academy 	<ul style="list-style-type: none"> ▪ Head of Human Resources ▪ Police staff generally Head of Human Resources ▪ Head of police training department ▪ Head of police academy ▪ Trainers ▪ Police students & recruits 	
4.3	FACILITIES AND EQUIPMENT	<ul style="list-style-type: none"> ▪ Visits to crime investigation offices 		
5.1	REPORTED CRIMES	<ul style="list-style-type: none"> ▪ Crime reports ▪ Visit to front office/desk ▪ Visit to Despatch Office or Unit (which manages response to calls) 	<ul style="list-style-type: none"> ▪ Head of crime investigation ▪ Person who allocates crimes ▪ Prosecutor 	

	TOPIC	SOURCES	CONTACTS	COMPLETED
5.2	PROACTIVE INVESTIGATIONS	<ul style="list-style-type: none"> ▪ Police Information and Intelligence Systems Tool ▪ Any proactive operational plans & their terms of reference ▪ Analyses and profiles developed for proactive operations 	<ul style="list-style-type: none"> ▪ Prosecutor ▪ Investigator ▪ Analysts ▪ Head of any criminal intelligence cell 	
5.3	INFORMATION/EVIDENCE GATHERING	<ul style="list-style-type: none"> ▪ Codes on criminal procedure ▪ Training manuals and guidelines on how to deal with evidence ▪ Records of "failed" court cases ▪ Notes made by police about incidents or their notebooks ▪ Logs of evidence and exhibits ▪ Logs of premises searched ▪ Visit to secure property room 	<ul style="list-style-type: none"> ▪ Supervisor of police notebooks ▪ Prosecutors ▪ Person in charge of secure property room 	
5.4	IDENTIFICATION	<ul style="list-style-type: none"> ▪ Codes and protocols on identification ▪ Material used for showing suspects' photographs (books or software) ▪ Examples of photo-fits ▪ Codes on conducting identification parades ▪ Visit to identification parade 	<ul style="list-style-type: none"> ▪ Person responsible for conducting identification procedures ▪ Investigators ▪ Prosecutor ▪ Defence lawyer 	
5.5	VICTIMS AND WITNESSES	<ul style="list-style-type: none"> ▪ Guidelines on dealing with victims and witnesses ▪ Protocols on witness protection 	<ul style="list-style-type: none"> ▪ Criminal court judges ▪ Prosecutors ▪ Witness protection officers ▪ Any victim or witness support services 	
5.6	COVERT TECHNIQUES	<ul style="list-style-type: none"> ▪ Guidelines and standards for covert surveillance 	<ul style="list-style-type: none"> ▪ Criminal Court judges ▪ Prosecutors ▪ Investigators ▪ Technicians who conduct covert surveillance ▪ Representative from independent monitoring body 	
5.7	INFORMANTS	<ul style="list-style-type: none"> ▪ Tool: The Integrity and Accountability of the Police ▪ Guidelines on registering and use of informants 	<ul style="list-style-type: none"> ▪ Investigators (particularly those who handle informants) ▪ Prosecutors ▪ Person in charge of coordinating informants 	
5.8	DATABASES	<ul style="list-style-type: none"> ▪ Crime reporting system ▪ Different databases, their terms of reference (user requirement) and guidelines on use 	<ul style="list-style-type: none"> ▪ Supervisor of crime reports ▪ Chief information officer ▪ Database managers ▪ Technicians or consultants who manage the databases ▪ Prosecutors 	

	TOPIC	SOURCES	CONTACTS	COMPLETED
5.9	INTERVIEWING 1.9.1 SUSPECTS 1.9.2 VICTIMS & WITNESSES	<ul style="list-style-type: none"> ▪ Guidelines on investigative interviewing ▪ Visit to interview rooms ▪ Guidelines on post-conviction visits ▪ Independent inspection reports 	<ul style="list-style-type: none"> ▪ Trainers of interviewing courses ▪ Prosecutors ▪ Investigators ▪ Police staff who take statements ▪ witnesses ▪ Polygraph technicians ▪ Representative of any independent monitoring organisation 	
5.10	USE OF MEDIA	<ul style="list-style-type: none"> ▪ Examples of public appeals ▪ Visit to any police hotline office ▪ Media reports and campaigns 	<ul style="list-style-type: none"> ▪ Police media (PR) officer ▪ Investigators ▪ Prosecutors ▪ Journalists, editors 	
5.11	INTERNATIONAL COOPERATION	<ul style="list-style-type: none"> ▪ Agreements with any international organisation ▪ Examples of Rogatory Letters/Letters of Request ▪ Visit to Interpol National Central Bureau 	<ul style="list-style-type: none"> ▪ Head of international liaison ▪ Local investigators ▪ Head of international judicial cooperation (mutual assistance bureau) ▪ Head of Interpol officer 	
5.12	PREPARING FOR CHARGE AND TRIAL	<ul style="list-style-type: none"> ▪ Case files ▪ Examples of charge sheets ▪ Manuals of guidance on crime investigation; ▪ Investigator job descriptions; ▪ Programmes for training crime investigators; ▪ Codes of practice and procedure on investigation; ▪ Crime reports; ▪ Case files; ▪ Databases available to investigators; ▪ Programmes of training for investigators; ▪ Forensic Laboratories; ▪ Exhibit stores; ▪ Interview rooms; ▪ Media and press reports; ▪ Visits to investigators' office(s); ▪ Visits to specialist crime units. 	<ul style="list-style-type: none"> ▪ Criminal Court Judge ▪ Person supervising case files ▪ Person preparing case files ▪ Prosecutors ▪ Defence Lawyers ▪ Government Minister responsible for law enforcement – possibly Minister of Justice or Interior; ▪ State Prosecutor, Attorney General or Director of Public Prosecution; ▪ Criminal Court Judges; ▪ Head of crime investigation department; ▪ Investigators; ▪ Officer responsible for supervising crime files; ▪ Head of personnel; ▪ Head of police training ; ▪ Trainers of investigation courses; ▪ Database managers; ▪ Forensic scientist; ▪ Forensic Pathologist (medical examiner) ▪ Defence Lawyer; ▪ Person in charge of criminal investigations; ▪ Officer responsible for screening crime reports; ▪ Victims/witnesses/suspects; ▪ Researchers in crime investigation issues; ▪ Journalists 	

	TOPIC	SOURCES	CONTACTS	COMPLETED
6.1	PARTNERSHIPS	<ul style="list-style-type: none"> ▪ Protocols for cooperation with other agencies ▪ Notes of meetings between investigators and/or with prosecutors; ▪ Case conferences ▪ Local media/press reports; ▪ Site visits; 	<ul style="list-style-type: none"> ▪ Representatives of partner agencies; ▪ Head of police cooperation department; ▪ Head of Interpol National Central Bureau; ▪ Head of other international partners 	
6.2	DONOR COORDINATION	<ul style="list-style-type: none"> ▪ Internet Websites ▪ Programme and project documents; ▪ Project terms of reference; ▪ Public brochures and literature; ▪ Regional organisation offices ▪ Memoranda of Understanding with international community, organisations or donor countries (e.g. UN, European Commission, OSCE, ASEAN, Interpol etc) 	<ul style="list-style-type: none"> ▪ Senior police managers ▪ Local representatives of other international initiatives (particularly foreign law enforcement liaison officers). ▪ Representatives of relevant international or regional organisations working in the country; ▪ Embassies/Ministries for donor activity. ▪ Programme and project managers for international initiatives ▪ Local UN representative ▪ Local representatives of other international/regional organisations ▪ Embassies (especially foreign law enforcement liaison officers). 	

GENERIC REACTIVE INVESTIGATION





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