

# Reports & Statements Writing Guide

National Guidance

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## Introduction

The Standard Prosecution Report (SPR) is the agreed national format which ensures a uniform system of report writing throughout Scotland. The aim of the SPR is to present pertinent information in a logical and accurate manner for consideration by the appropriate Procurator Fiscal (PF).

The PF cannot make assumptions about the evidence in any case. All evidence must therefore be included in the SPR. If evidence is missing the PF may have no alternative other than to mark the case for no proceedings. It cannot be assumed that the PF will be in a position to repair defects in SPRs. The responsibility for producing accurate and full SPRs lies entirely with reporting officers.

The need for fullness and accuracy is particularly important given that both Police Scotland and PF have a legal obligation to fully disclose the case at the earliest possible stage to any accused who is being prosecuted.

The SPR uses a number of headings and sections to group the relevant evidence and facts. They enable Procurators Fiscal to make informed decisions, instigate criminal proceedings, and to assist presentation in Court.

If an officer wishes to communicate with the PF, before submission of an SPR they should seek local guidance.

This guide has been produced to provide all members of the Service instruction on the content and writing styles required when submitting all documents in the SPR document set, including the National Standard Statement (NSS). It should be noted that this is not a system guide. Information on local systems for submitting reports can be accessed via the Case Reporting SOP.

### Sufficiency of Evidence

There must be sufficient evidence to support each charge, and this must be detailed in the description of events section of the SPR. There could be occasions where a circumstantial link or chain (e.g. Moorov or Howden) is appropriate.

The evidence must be factual and contained within the statements of the witnesses which are referred to.

It is important that the description of events states, not only what the facts are, but also where the evidence is to be found.

This evidence must also be contained in the analysis of evidence section where brief reference must be made to the crucial facts spoken to by each individual witness.

### Human Rights

The Human Rights Act 1998 emphasises the need for sufficiency, accuracy and timeous submission of Police reports and statements. This act gives effect to some of the provisions of the European Convention of Human Rights (ECHR) in domestic courts. The implications of ECHR also mean that certain decisions taken by officers will need to be included in the report. This includes decisions to detain or arrest a person and any subsequent decision to keep them in custody. Reasons for these decisions, including a clear indication of statutory or common-law powers under which officers acted, must be clearly explained. What is contained in the charge requires to be proven in the summary of the report (when, where, how it occurred and who was affected).

The importance of report writing cannot be overstated. It is central to carrying out the duties of a Police officer. Reporting officers have ownership and responsibility for the SPR throughout the entire process.

### Moorov Doctrine and Howden Principle

If reporting a case involving either the Moorov Doctrine or Howden Principle refer to Legal Database in the first instance and thereafter seek specialist advice from local supervisors, Case Management Units (CMUs) or PF Liaison officers.

### Notebooks and Mobile Devices

The importance of keeping adequate notes cannot be over emphasised. Detailed evidential notes that were made at the time of an incident, or as soon as practicable thereafter, demonstrate a professional approach when they are referred to in court, and will comply with the demands of disclosure.

In particular, reasons for taking decisions or opting for specific courses of action should be noted. The Human Rights Act 1998 and requirements of the ECHR must be taken into account and as such details of the charge must be recorded in the notebook or mobile device.

All officers should be aware that notebooks and mobile devices can be seized as productions and could be subject to intense scrutiny in court.

### Information Security / Record Retention

All officers and staff will use, access, protect and disclose information assets (including electronic, paper and voice) in accordance with the Information Security SOP, Information Security Handbook and Data Protection SOP.

All records created, maintained and disposed of must be done in line with the Record Retention SOP.

### Disclosure

The police are obliged to reveal to the Crown Office and Procurator Fiscal Service (COPFS) all relevant material obtained or generated during the investigation otherwise than that which is manifestly irrelevant.

The COPFS is obliged to disclose to the defence any information that forms part of the prosecution case they intend to use at trial along with any exculpatory information obtained or generated during the investigation

The SPR clearly defines where information is ‘disclosable’ or ‘non-disclosable’. Officers must be aware that where it states information is ‘disclosable’ then any text or information is likely to be shared with the defence.

### Arresting charge

In complex custody cases where there are a multitude of charges, or the enquiry is still ongoing, consideration should be given to libelling charges which are straightforward to prove. This is providing all sufficient evidence available, and the appropriate identification of accused, is detailed in the description of events. It should be highlighted in the further enquiry section that additional charges will follow on an ancillary report or separate SPR once further enquiry has been completed. It should be noted that this process will be the exception to the rule and local supervisors and / or CMUs must be consulted prior to this practice being adopted.

### Supervision

All time scales should be strictly adhered to, with any delay fully explained in the remarks section of the report. Supervisory officers are expected to quality check reports submitted by their inexperienced officers and must also ensure their staff submit satisfactory reports in a timeous manner.

Supervisory officers are also expected to advise their staff on the submission of a SPR, is it necessary? Or could the reporting officer consider Direct Measures for example: Recorded Police Warning (RPW), Antisocial Behaviour Fixed Penalty Notice (ASB FPN) or a Conditional Offer of Fixed Penalty Notices (COFPN), the latter is used for road traffic offences.

## Particulars of accused

This section is mandatory and must include full details of the accused person(s) or company as detailed below.

### Name

The full and verified name of the accused must be recorded.

### Other name

If the accused is known by a name, other than their own, e.g. a child known by stepfather’s name, thismust be included.

### Alias

If an accused is known to use an alias, then this must be included.

### Married name

Married names are not aliases and should be recorded in the normal manner. If an accused has been married more than once all of their married names should be included to ensure that the correct identity is found i.e. Mary Brown or Smith or Jones

If a female accused has divorced and has reverted to her maiden name her full legal name would be; - Mary Brown or Smith or Jones known as Brown

In these instances the names will be recorded on the SPR as:

#### Forename Field - Mary

#### Surname Field - Brown

#### Other or maiden name - Brown or Smith or Jones

### Occupation

The accused’s occupation should be ascertained asthis could prove crucial where the offence may affect the licensing of the accused or where their occupation is a notifiable one, such as teacher, taxi-driver, medical doctor, nurse, Police officer / employee or member of the Armed Forces.

If the accused is in employment which the reporting officer believes may be notifiable, full details of the employer and place of employment should be noted for inclusion in the Antecedent history.

### Driver number

The driver number of an accused must be added in all Road Traffic Act offences unless the accused does not possess a licence.

### Company or business

Where a company is the accused, the registered company name and full address of its registered office should be inserted.

Care should be taken to ensure that the company name is correct. In particular it should be made clear whether the entity is a limited company, a partnership, or a sole trader, as this is important information for the COPFS and the court.

The responsible representative is not an accused unless that person has actively committed the offence, but will be listed as a witness. The analysis of evidence should reflect the person’s role in the company.

Where an individual carries on a business on their own account, but under the name of a firm (i.e. John Smith trading as John Smith Joiner), then the offences against the business will be recorded against accused. In the antecedents it should be made clear that accused is ‘Trading As’ whatever the name of the firm may be.

## Charge details

### Charge list

A charge list is supplied by the COPFS and is updated monthly. The wording of charges has been agreed at a national level and is reviewed regularly. The reporting officer must populate the blank variable fields within each charge.

### Variables

It may be when compiling a charge that certain phrases require to be repeated in different parts of that charge. It is essential that the phrase is repeated exactly. Failure to do so will result in the charge being rejected by the COPFS IT system.

When completing variables, write in sentences using sentence case. Block capitals should not be used.

### Points to note

The only words in a charge which should be in upper case is the accused’s full name.

The accused’s name in the charge and SPR should match the accused’s name on the Criminal History System (CHS)

Charges should be in chronological order, the charges libelled should relate to the evidence available and the charges on the SPR should match exactly those added as a pending case on the Criminal History System (CHS)

Charge 1 on the SPR should be same as charge 1 on CHS and so on.

Reporting officer must ensure that if the locus is the same for a number of charges, then it must be set out in exactly the same way in every charge.

The following is an example of getting this wrong:

There are three charges where the same locus is referred to slightly differently in each charge:

Charge 1 – “St Andrews Drive near to the junction of Burncrooks Avenue, Bearsden, Glasgow.”

Charge 2 – “72 St Andrews Drive, Glasgow.”

Charge 3 – “St Andrews Drive, Bearsden.”

The locus described in Charge 1 should be described the same way in charges 2 and 3.

Everything in a charge must be proved therefore it is important that non specifics in terms of injuries, words uttered and property stolen, for example are used:

* If a DVD player has been stolen, it should be described as a DVD player and not a Panasonic DVD player model HQ320XY.
* It is not necessary to specify the colour, make or model of any vehicle, use only generic type and vehicle registration in the charge. This applies even where multiple vehicles are involved.(Generic types – bicycle, motorcycle, car, van, lorry or bus)
* Assault charges should not libel “slight injury”, “minor injury” or “serious injury”. There is no such charge, there is either assault to injury or severe injury.
* Do not use ‘ing’ words such as “by kicking and punching him”. If the charge is one of assault, stating that the victim was punched and kicked to their injury is a sufficient description.
* State that a victim was punched, slapped, stamped on, or kicked on the head or body, not about the head or body. Do not use arm, leg, back or left buttock etc. In a charge a person can only be assaulted to the head or body, anything below the neck is body, neck and above is head. Do notspecify struck with fists and feet etc. Other superfluous phrases include “with your clenched fist”, “to his hurt”.
* If the victim was punched and kicked more than once then the word ‘repeatedly’ should be used. If the victim was hit with an object or weapon it’s struck with and always onhead or body.
* If the nature of the charge requires the victim to be named, then their name and address care of Police Service of Scotland is sufficient as victim’s home addresses should not normally be disclosed to the defence. Do not shorten this to c/o Police Scotland or c/o PSOS.
* Do notadd the weight or value of any drugs seized in the charge, this will be described within the report.
* When completing a charge, officers should refrain from including actual words alleged to have been said by accused.
* It is sufficient to use phrases such as; use threatening, abusive, offensive, racist language, shout, swear etc. The actual words alleged to have been said by the accused should be included in the description of events. Remember you must prove the charge.
* Where a child is named in the charge the words “son / daughter of and residing with” are unnecessary. The date of birth not the age of the child should be specified.
* When more than one item of a certain description is stolen use figures not words, use generic terms such as ‘quantity of toiletries’ or ‘6 bottles of alcohol’. The value of the items stolen should not be in the charge but in the summary.
* If there is a breach of curfew, the charge should specify where and when accused was found (or missing from home).

### Additional charges

Where additional charges have been discovered, relating to the same circumstances in which a report has already been submitted, then use will be made of an ancillary report. However it is always worth seeking the advice of the PF as the case may be at a stage that is not suitable for further charges to be added and a new SPR may be required. Local CMUs can provide assistance on this matter.

### Obscure charges

If the reporting officer finds that there is no relevant charge available on the list provided, they should make contact with the local CMU, who will approach COPFS with a view to having the relevant charge added to the list.

If that charge is the only charge on the report it cannot be submitted until the new charge appears on the list. If there are other charges then the report should be submitted with an explanation that a further report will be submitted with the new charge when available.

A Fast Track system exists for custody cases and it may be that the charge can be created in time to submit the report including the new charge before the case appears at court.

### Aggravators and modifiers

When any charge is created the option to include aggravators and / or modifiers is given. Relevant aggravators and / or modifiers must always be included for all charges especially drug and domestic offences when the SPR is submitted.

“Aggravators are just that, aggravators to other offences.” Broadly, an offence cannot be aggravated by a factor which is an essential ingredient of the offence – e.g. Breaching a bail order, an offending whilst on bail aggravator would not be used for this charge unless there were other bails in place for the accused.

A breach of undertaking aggravator would not be used for a breach of undertaking charge (unless there is a second Undertaking charge) but would be used on any other charges.

There are exceptions to this rule which have been set by COPFS regarding domestic abuse offences. This table illustrates what aggravators should be added when reporting domestic offences.

Sect 1 DASA (Domestic Abuse Scotland Act 2018) – D only (You must select the Domestic Abuse aggravator)

Sect 1 DASA with Child Aggravation – D and Y (You must select the Domestic Abuse aggravator & Statutory Domestic Child aggravator)

Common Law Offences – D and W (You must select the Domestic Abuse aggravator & Statutory Domestic aggravator)

Other Statutory Offences - D and W (You must select the Domestic Abuse aggravator & Statutory Domestic aggravator)

### Compensation

Where appropriate the Compensation section requires to be completed for each charge.

## Antecedents (Non-Disclosable)

The antecedents section should include both accused specific and general antecedent information.

### Accused specific

An antecedent history for each accused should be kept relevant to the report. Antecedents provides COPFS with essential information relating to the decision-making process for disposal of the case and possible diversionary measures for the accused. It can also assist in determining the most appropriate court to hear the case. The importance of this section is often not appreciated.

A general comment on previous convictions, pending cases, crime type history and all bails inclusive of court, date and any special conditions should be included.

When editing an accused on National Case the application auto populates questions that were supplied by COPFS as the basic information they would require, this should be utilised by all reporting officers. The agreed antecedent questions are as follows:

Recordable Police Warning or Fixed Penalty Notice considered and ruled out because <insert details>

Reporting Officers opinion on alternative to prosecution (Diversion measures) <insert details>

Family Background:

Education / Employment / Training:

Does the accused have children: Yes/No

Details of children inclusive of age and any known vulnerabilities:

Is the accused the main or sole carer of the children: Yes/No

What practical impact the remand of the accused would have on those children (as informed by the accused):

Attitude to Offending:

Alcohol / Drug / Other issues:

Disability:

Vulnerabilities:

Mental Health:

Social Work Involvement:

Risk of Reoffending / to Public:

Means to pay a fine:

Recent referral to SCRA/EEI:

Interpreter Required:

Any previous convictions:

Driving Licence number:

Current/Live points on accused's Driving Licence:

Was accused on bail at the time of the offence - <Yes/No>

Accused appeared at <insert court details> on <insert date> where he/she was released on bail <with/without conditions>.

The conditions are <insert bail conditions if relevant>

If any relevant non-Scottish previous convictions are listed on Police National Computer (PNC) these should be included as the COPFS has limited access to PNC records.

### General antecedent

The antecedent section of the report allows any personal information to be detailed which the reporting officer considers relevant to the report. This can include relationships between accused and witnesses. The information presented may be relevant to either accused or the offence they have committed.

### Domestic antecedent

To ensure that COPFS are in full possession of all relevant information and in compliance with the Domestic Abuse Toolkit, reporting officers should utilise the Domestic Abuse Template to ensure submission of all information that is required to be included within the summary section of SPR’s in all domestic abuse cases. This guidance is available for all to use on the Police Scotland intranet page. To assist in the reporting of domestic abuse to COPFS jointly agreed templates were created to capture the required information.

These templates are on National Case and can be selected by reporting officers to be used in both the antecedents section and the description of events section of the SPR.

It is imperative in a domestic abuse SPR that the reporting officer confirms if the victim’s home address should be disclosable or not as this greatly assists the PF in dealing with the reported case.

### Antecedent Headings for Child Complainer or Child Witness

To ensure officers comply with the Lord Advocate Guidelines on the reporting of cases which involve a child complainer, or a child witness the following headings must be used in the antecedents section of an SPR.

#### Views of the Child Complainer or Witness

Any views expressed by the child during the investigation, including any comments around safety issues or other matters raised by the child.

If it was not considered appropriate to ask the child questions or to offer them a chance to tell the police about anything they wished to comment on, an explanation of why this was not appropriate.

If the child was offered an opportunity to provide comments to police officers but chose not to do so.

Any views expressed by the child to others including their (non-offending) parent, social workers, teachers, advocacy support worker etc where known.

#### Views of the Parent/Guardian of a Child Complainer or Witness

Do they wish their child to give a statement in the case?

If not, why is that their position?

If the accused is granted bail by the court pending trial, do they wish any special conditions to be imposed in relation to their child?

The parent/guardian should be asked why they are requesting special conditions.

Does the child have any vulnerabilities or additional support needs?

### Military personnel

If accused is in the military, then their number, rank, unit and unit address must be included in the summary.

**Age of Criminal Responsibility**

Age of Criminal Responsibility (Scotland) Act 2019 – Children under 12 years of age.

The act requires all public bodies to change the language used when referring to children believed to be responsible for causing or risking causing harmful behaviour whilst aged under 12.

Children will no longer be referred to as ‘suspect’ or ‘accused’ and the terms ‘arrest’ or ‘charge’ will not be used. Instead, refer to ‘harmful behaviour’ or ‘behaviour causing or risking harm’.

Where a child is believed to be responsible for causing or risking causing harmful behaviour, they may only be referred to the Scottish Children’s Reporter Administration (SCRA) on the non-offence grounds. This will be via a Child Concern Report in accordance with established National Risk and Concern Hub protocols**.** An SPR will no longer be submitted.

### Children and Young Persons

In cases of those who offend aged 12-17 and those under 18 on a supervision order, a full and detailed antecedent history should be recorded in appropriate fields.

In the SPR there are specific fields which must be completed. Consideration should be given to the following:

### Family details

* Full personal details of natural parents, including names, dates of births, employment, addresses and telephone numbers.
* State whether together / separated / divorced.
* If separated / divorced, is there contact between child and non-resident parent?
* Guardian/Co-Habitee / Stepparent (if applicable).
* Full personal details of each adult, stating whether they are resident / non-resident in the home.
* Are parents / guardians supportive of their child?
* Are parents / guardians attempting to exercise control?
* Will the parents / guardian take some corrective action? Will the child accept this?
* Have the parents / guardian expressed any specific concerns?
* What is known about the relationship between the child and parents / guardian?
* What is the parents / guardian response to the incident?
* Full personal details of all brothers and sisters and whether residing at home.
* What is the relationship like between brothers and sisters and the offender?
* Does this relationship provide a hostile or supportive atmosphere?

### School

* What school does the child attend?
* Is there a record of truancy or expulsions?
* Has the child been on behavioural reports?
* Is there commitment and effort to achieve at school?
* What are their grades / results like?

### Health

* Are there any indications that the child may be withdrawn or frightened?
* Are there concerns that the child is subdued in the presence of his / her parents that seems 'strange' to the attending officers?
* Are there indications of: mental or physical illness / injury, learning disability, dyslexia, self-harming or substance misuse / addiction?

### Activities

* Does the child regularly attend youth organisations, voluntary groups, clubs, sports, or outdoor activities?
* Does the child have any other regular hobby or activity?

### Criminal / anti-social activity

* Is there evidence of undesirable associations or peer pressure?
* Have they come to the notice of the police prior to this incident?

### Lifestyle

This section reflects your understanding of the people in the child’s life and the type of life that is led by them. For example:

“Both parents work, and the child is left at a nursery” or; “neither parent works and they are at home all the time” or; “there is evidence within the home that the parents regularly drink alcohol or abuse substances”

Such lifestyles should be further expanded upon in the summary, if pertinent.

### Attitude

* Admission of guilt (does the child fully admit or deny the allegation?).
* Responsibility (does the child accept responsibility for their actions?).
* Co-operative (was the child co-operative throughout your enquiry?).
* Remorse (Is the child sorry for their actions at time of crime; not merely that they have been caught?).
* Redress Damage (Is the child willing to make appropriate amends? i.e. clean up vandalism etc.).
* Aggression / hostility (What was the attitude of the child?).
* Parental Attitude (towards children’s behaviour).

It is important that all points are commented on, even if in the negative. E.g. “Home conditions are unknown as the home has not been visited”.

### Cultural and / or religious needs and hate crime

Where a possible cultural or religious need or hate crime is identified the reporting officer must record details of these within the Prejudice Incident section.

### Additional needs

Please indicate in the relevant section details regarding this subject in relation to accused, victims and witnesses.

It is sometimes the case that persons who are deaf may also have difficulty speaking, reading and writing and all these things should be considered and taken into account and stated in the antecedent history.

### Interpreter

If the first language of an accused or a witness is not English or there is doubt as to the level of understanding of English written and / or spoken, then an interpreter may be required.

Interpreter information is extremely important, in particular for custody and undertaking cases, as it is the duty of the Police to provide an interpreter for a first court appearance.

Failure to do this may result in a breach of accused’s Human Rights and the trial being abandoned or a dangerous accused released on bail.

Interpreters include those signing for the deaf and readers for the blind or visually impaired.

A full language assessment must alwaysbe included for any party whose native language is not English. The converse also applies and it is always helpful to have confirmation that witnesses whose first language is not English do not have interpreting requirements.

### Appropriate Adult Scheme

If an accused or a witness falls within the scope of the Appropriate Adult Scheme then reference should be made about this in the remarks section (not the antecedents). The Appropriate Adult should be included as a witness.

### Bail questions

This information is extremely important as it will be used by the Sheriff while assessing an accused for bail prior to making any judgements. Please check CHS record of accused, this provides the criminal history and any relevant convictions. In all domestic cases special bail conditions should be sought, the view of the victim in relation to special bail conditions should also be included.

High quality information provided by the reporting officer, will allow the PF to deliver the full picture to the court, thus permitting the Sheriff to come to an informed decision. Sheriffs must justify on paper why they granted or did not grant bail.

If a case is a custody, undertaking or warrant request, then the following questions must be answered:

1. Is there any reason to believe that the accused would fail to attend for court appearances?
2. Is there any reason to believe the accused would take action to interfere with the administration of justice?
3. Is there any reason to believe the accused is likely to re-offend?
4. Is there any reason to believe that the accused is likely to cause public disorder?
5. Is there any information to suggest at the time of the offence that the accused was subject to a bail order or any other court order?
6. Is there any other information to suggest that the accused should be remanded in custody?
7. Is there any information to suggest that special conditions would be appropriate should the accused be released on bail?

Reporting officers must also provide and justify their opinion as to whether accused should be given bail or not.

## Reason for warrant request (Non-Disclosable)

This information is to be included within every SPR where a warrant is requested, however due to the various IT systems in place across the country there may not be a specific section available for inputting this information.

If the IT system does not have a dedicated area this information must be included in the non-disclosable key information section of the report.

Always state the full and valid reasons for requesting a warrant. A warrant should not be requested merely due to the reporting officer being unable to trace the accused.

Cognisance should be given to the severity of the charge before requesting a warrant.

### Enquiry details

It is important that a full and thorough enquiry has been carried out to trace the accused prior to requesting a warrant. This section must contain comprehensive details of that enquiry.

### Trace evidence

If any particular action is needed on the arrest of accused it should be mentioned here, such as a need for fingerprints, DNA samples or handwriting samples.

It should be clear that it is not acceptable simply to request a warrant to apprehend on the basis of a DNA Profile or Identifiable Digital Impression being obtained at the locus. There must be other evidence in addition to the trace evidence that together would be sufficient to report the accused.

## Description of Locus (Disclosable)

In addition to the details included in the charge, a description of the locus including the address should be specified where this information is relevant to the charge, e.g. type of premises, in a public place, description of building.

This section should be more comprehensive than the information included in the charge.

When describing a locus for road traffic cases cognisance should be taken to the severity or number of charges libelled and the relevance of the locus to the charge. For example a multi charge case as a result of a vehicle pursuit would require a more detailed description than a mobile phone offence report.

Always add the cross reference in a road traffic case charge and locus:

Main Street at its junction with High Street, Glasgow or Main Street near to the junction of High Street, Glasgow.

If the case goes to trial, it is likely that the prosecutor may not know the premises, therefore unless a brief description is given they are at a distinct disadvantage when speaking to witnesses.

### Complex locus

If the locus is complex, such as the crime occurring in a house, describe it in a logical manner from the point of entry to help the PF to visualise it.

### Description relevant to charge

The following are examples of the level of detail required in descriptions relevant to the charge type:

#### Theft by Housebreaking:

The locus of the crime is number 3 High Street, Brookbank, a detached two storey dwelling house set in its own grounds and surrounded by 7 feet walls encompassing a locked gate.

#### Breach Of The Peace:

The locus is High Street, Dundee, which is a busy thoroughfare and mainly consists of shops which are well used by members of the public. At the material time there were a lot of people in the area who were clearly alarmed.

#### Road Traffic:

The locus is Main Road, Brookbank at the junction with College Terrace, Brookbank. Main Road is a two-way undivided carriageway that runs east to west. It carries a heavy volume of traffic and is a main commuter route into Brookbank. College Terrace is also a two-way undivided carriageway and runs primarily in a north / south direction. It forms a T-junction at the north side of Main Road. It carries a moderate volume of traffic consisting mainly of private cars. Directly east of the locus there is a 30 mph speed restriction in place, whilst directly west of the locus a 40 mph speed restriction is in place. Both of the aforementioned roads have asphalt coverings and at the time of the accident were in a good state of repair.

Drivers approaching the locus from the east or west have a clear and unrestricted view for several hundred yards. At the time of the accident the weather was clear but overcast the roads dry and visibility was good.

## Description of Events (Disclosable)

This is the main body of the report and should be used to state clearly and concisely the nature of the events that took place.

The SPR should be written in the third person throughout.

This should be in clear English without the use of elaborate words, abbreviations or jargon.

Passive verbs such as “accused was seen to” should be avoided. If a description is written in this way then it is not known who saw him. The description should read “witnesses x and y saw the accused…” or the “police witnesses x and y saw the accused…”

Witness names do not need to be in block capitals, only their surname is required unless there is more than one witness with the same surname then use full names as this will make it easier to narrate the SPR in court:

“Witness Jones saw the accused….” or “Witnesses Jack Jones and Mary Jones saw the accused….”

The accused when introduced for the first time in the summary will be named in full, the name does notneed to be in block capitals (only in the charge)

For the remainder of the report the accused should only be referred to as “the accused” no surname required.

If however there are more than one accused a surname is required to assist COPFS differentiate between accused persons and their actions.

Details of any drugs seized should be added at the end of the description of events with the type of drug, the make-up of the drug (powder, tablets, resin etc.) weight of the drugs recovered, value of the drugs and if a presumptive test was carried out accompanied by the name the police witnesses who conducted the test and who corroborated the test.

Officers should clearly outline the grounds for any search in drug cases (or any other searches for that matter) within the disclosable description of events section of the SPR.

When drug supply or concerned in the supply casesare being reported to the PF the reporting officer must contact the Statement of Opinion Unit (STOP Unit) for them to confirm they support the charge libelled. This detail should be included in the non-disclosable remarks section of an SPR.

The information that the STOP Unit were contacted and the statement of opinion must be included in the disclosable description of events section of an SPR.

No supply or concerned in the supply SPR’s should be submitted without the value of the drugs being included along with the STOP Unit’s comment supporting the charge(s).

The named drugs expert (STOP Unit officer) details should not be included in the description of events but should be included in the non-disclosable remarks section of an SPR. The named drugs expert (STOP Unit) should not automatically be included in the list of witnesses for giving this opinion where they have no other involvement in the case.

Police Scotland must standardise the way in which we present "Rapid Restricted Analysis" (RRA) within SPRs, all the pertinent information in relation to an RRA should be contained within the SPR, description of events notthe "Remarks" section (as this is non disclosable).

This will assist COPFS approach the defence for discussion or agreement of this aspect of evidence stressing that there had already been a scientific analysis and that, although a full report could be prepared in the event of a not guilty plea, the defence would need to be clear that they were challenging the laboratory’s original analysis.

Suggested wording for the standardisation of the RRA information for the description of events (disclosable) is as follows:

“Production x was subsequently examined at the Scottish Police Authority Forensic Science Laboratory and was found to contain x, a class C drug controlled under the Misuse of Drugs Act 1971. This result was obtained by Scottish Police Authority Forensic Services Drugs Analysts using laboratory instrumental analysis techniques.”

The summary should continue as a running narrative, in chronological order, relating to the facts as they happened and making clear the involvement of each of the witnesses. All times quoted should use the 24-hour clock.

A description of events can be as long or as short as necessary. The key factor with any report is to ensure that the charges libelled have been proved by corroborated evidence.If not, re-assess the report and reconsider all the available evidence.

### Complainer

Never use the term “Complainer” “Reporter” or “Victim” within a SPR. The complainer, reporter or victim should be described as a witness. The witness name does not require to be in block capitals.

### Accused

Any known relationship between an accused and a witness should be explained in the summary.

Where there is more than one accused each must be properly identified by name throughout the summary, and it made clear from the outset to what extent each is implicated:

Accused Smith is involved in all charges.

Accused Jones is involved in the charge of Theft only.

When referring to the person charged in the summary or statements, use the word accused not “the now accused” or “the suspect”. No block capitals are required when referring to the accused with the exception of the charge.

### Property damage

Where damage is caused to property, the extent of the damage, and an estimate of the cost of repair, should be included in the relevant section of the report. Details of the victim are completed within the compensation section.

It should be noted that where residential property is owned by a local authority, housing association, or private landlord, a representative of the relevant landlord should speak to the cost of any damage or repairs. If the resident is not the property owner they are not competent to speak to such.

If accused is willing to pay for the damage, include this information in the remarks section of the report.

### Productions

All productions recorded within the production section of the report must be referred to in the summary.

This section should include details of any items which have been sent for forensic analysis, and any results if available.

In drugs cases the weight and physical make up, i.e. powder, tablets etc., along with the result of any presumptive test should be included in the SPR.

Remember what you first name your production, it must be replicated thereafter when making any reference to it. It should be called the same thing within a search record, in your notebook / mobile device, on the label, in the production book / IT system, production form and in the SPR.

The first time you refer to a production that was seized you should refer to it in your report in capital letters on a line of its own.

This lets the PF know that the item was seized as a production. Always indicate which witnesses found / seized the item in your report.

It is best practice that any description attributed to the item seized should be specific and unique to that item, it must also make sense to someone reading the SPR at a later date.

The requirement for this individual detail is needed for all types of productions for example:

CLINGFILM CONTAINING BROWN SUBSTANCE 1 - LEFT POCKET ACCUSED SMITH

CLINGFILM CONTAINING BROWN SUBSTANCE 2 - HANDBAG ACCUSED YOUNG

COPFSmay actively manage a case with the aim of early resolution, avoiding any need to go to trial.

On some occasions there maybe multiple CCTV discs that are part of the case submitted.

These are often not clearly enough described within the SPR to differentiate between the productions, this causes the clerk of the court and the PF difficulty in identifying the specific CCTV production for the consideration of an early resolution measure. This again highlights the individual detail needed for all types of productions- for example:

Instead of CCTV disc 1, CCTV disc 2, CCTV disc 3, an example of how these could now be described in greater detail would be:

CCTV DISC 1 – ENTRANCE / EXIT DOOR, SAINSBURYS, HIGH STREET, GLASGOW

CCTV DISC 2 - AILSE 5, SAINSBURYS, HIGH STREET, GLASGOW

CCTV DISC 3 - CHECK OUT 2, SAINSBURYS, HIGH STREET, GLASGOW

Production owner and contact details should be listed in full to allow return of items.

### Visually Recorded Evidence

Increasing use is being made of visually recorded evidence in criminal cases. Quite apart from Police / Local Authority systems, many businesses have their own, which are used as a potential deterrent against criminal activity. The SPR must contain a reference to the existence of such evidence.

The formats in which such evidence is available vary widely. In allcases where visually recorded evidence exists, it should be seized and lodged as a production.

Where visually recorded evidence has been seized as a production, a synopsis of the footage should be included at the end of the summary including location of camera(s), areas that the cameras cover, times and what is caught on them in relation to the accused / evidence trail (this includes pro-forma reports)

The format in which the evidence is available must be clearly shown. Courts are equipped with facilities for viewing DVD’s, but it may be necessary for the PF to instruct that evidence be converted to a suitable format for Court purposes, by means of a case related memorandum.

It should be noted that if visually recorded evidence, from any source, is to be used in Court, the PF will require that Certificates of Authentication and of Copying under Sections 283 and 279 of the Criminal Procedure (Scotland) Act, 1995, are completed and submitted with the production.

Whilst it is always an operational matter as far as seizure of evidence is concerned, where mobile footage is concerned, and is the only corroboration to an offence, this should be seized immediately rather than making a note in the SPR that it will be obtained later if the PF requires it.

In a case such as this, the witness should be asked to provide a copy or email the footage immediately to the reporting officer or any of the attending officers. The reason for this is, that if this was the only charge on the complaint, and the CCTV or footage cannot be later obtained, there is likely to be insufficient evidence to prove the charge. The officers who initially view the footage will not be allowed to give evidence about what they saw. Without the footage, the evidence is inadmissible.

Lennox and Paton v Lord Advocate 2008 HCJAC 22

Held that evidence of police officers who viewed CCTV was inadmissible where the CCTV evidence itself was subsequently erased.

However Lennox and Paton v Lord Advocate 2008 HCJAC 22was challenged by Gubinas v Lord Advocate 2017 HCJAC 59 (below).

#### Gubinas v Lord Advocate 2017 HCJAC 59

Held that a Court may be willing to entertain evidence of what a police officer saw on CCTV where the CCTV has been lost, rather than reaching a definitive position – “A person who knows the accused can be asked to identify him from the image (even if the image has been lost).”

Notwithstanding this, an accused person may still object to the leading of such evidence on the grounds of fairness and a Court would require to assess same. (See Lennox and Paton v Lord Advocate 2008 HCJAC 22).

When dealing with CCTV evidence that has been lost by some means, a broad principle may be that:

* Where the evidence of a police officer is the only evidence of the behaviour/identity of the accused the current state of the law is that the Crown would be unlikely to be successful in persuading a court that the evidence of a police officer as to what they saw on the lost CCTV is sufficient. It is unlikely that COPFS would currently take up a case in these circumstances.
* Where there is other evidence (e.g. from two civilian witnesses of an assault) there may be a stronger argument that the evidence of what a police officer viewed on (unavailable) CCTV is relevant and can be fairly admitted into evidence.

Remember a synopsis of the footage should be included at the end of the summarythe following is an example of good practice for the lay-out of CCTV evidence:

High Street, Brookbank, is covered by CCTV linked to video recording facilities located at Police Headquarters, Tulliallan. The cameras are monitored by members of Police Staff who have a direct link with the Area Control Room.

The locus is High Street, Brookbank, immediately outside the premises at No. 82, occupied by Boots, Chemists. Camera No 219 is situated at the junction of High Street and Main Street. This camera provides coverage of the street, footpath and entrance to the premises.

Each event should begin with the relevant time in hh:mm:ss format:

Tuesday, 12th February, 2008

10:53:54 - Accused (fair hair, wearing a white shirt and blue jeans) is seen approaching the locus from the direction of Main Street.

10:54.30 – Accused approaches witness Whyte (wearing dark coloured jersey and trousers) as he exits Boots Chemists, and without warning, punches him twice on the head, knocking him to the ground.

10.55.00 – Witness Whyte attempts to grapple with accused and is again punched on the head, falling back to the ground, apparently unconscious.

10.55.30 – Accused is seen to run away from the locus in the direction of Main Street and is lost from view. A male (witness Jones – wearing blue overalls), is seen to stop and tend to witness Whyte.

### Custody Suite Video Evidence

Should there be CCTV evidence of an offence committed at a Custody Suite, or if it felt that what is recorded may have relevance to an offence previously committed, a recording of the incident must be lodged as a production and the relevant information shown in the SPR.

### Exculpatory Information

See Section 12 (Details of any known defence) for details of what must be included in relation to exculpatory information.

### Search

The basis on which any search was conducted, (e.g. Common law, statue or warrant etc.) must be included in this section.

### Review

Once this section has been completed, go back to the charge and read it through. Ensure that everything has been proved.

* Have the date(s) of the offence been included?
* Has the specific day of the week been included in the summary?
* Has the locus been proved?
* Who committed the offence? Has this been proved?
* Have all persons involved been included in the description of events?
* Has the nature of the offence and how it was committed been proved?
* Is the Statute correct? All the evidence should be presented, including exculpatory evidence. It should not just be what is felt to be damning. Do not take the stance that the report is just a couple of paragraphs to be sent to the PF whilst a request for statements is awaited.

## Medical Evidence (Disclosable)

Detailed information relating to the nature and extent of medical evidence, relevant to each accused and witness, must be included in the SPR. This must also highlight the fact that no injury has occurred as a result of an assault or similar.

Although medical practitioners can include a number of disciplines and roles, a Doctor is always included as a witness regarding injuries they treated.

### Psychiatric Information

If an accused has been seen by a mental health professional this information must be submitted in the SPR in full.

If the accused has been seen by a Force Medical Examiner (FME) or custody NHS Hub Mental Health Nurse whilst in custody, then provide details of the FME’s / Mental Health Nurse’s findings in the SPR.

If the FME has asked that COPFS arrange for the accused to see a Community Psychiatric Nurse on the morning of the custody court then the Reporting Officer is responsible for detailing the reasons why the FME thinks this is necessary in the SPR.

### Injuries

Specify the exact nature of injuries sustained by witnesses or accused persons along with details of medical treatment / examinations by Medical Practitioners.

Consider having the injuries photographed by a Scenes of Crime Officer (SOCO) and lodge the photographs as a production.

### Medical opinion

This must include an opinion on whether or not the injuries are consistent with the facts available. Caution should be exercised on how far one goes in this respect as most Medical Practitioners are not forensic medical experts.

If relevant, medical opinion on the emotional and physical state of the victims is to be included. Police officers observations in this respect could also be recorded.

Permanent disfigurement is not constituted by any form of minor scarring but has to be a good deal more substantial. If it is considered that the injuries amount to “permanent disfigurement” then specific detail should be given to justify this.

### Prognosis and treatment

The medical evidence should include what treatment has still to take place and the likely prognosis of the injuries.

It must include notification that the Police will maintain their enquiry, and follow up treatment will be recorded and reported, via an ancillary report, to the PF.

### General Medical Council Registration Number

The Doctor’sGeneral Medical Council (GMC)Registration Number should be noted and recorded on the SPR. This is extremely helpful to the PF when tracing Doctors for subsequent trials.

## Details of police interviews / Text of admissions (Disclosable)

This section contains relevant utterances made by accused to police officers whether as unsolicited comments, replies to detention, or replies to specific questions under caution (whether recorded or otherwise). Any reference to something said by the accused must contain the actual words spoken.

### Police Interview - Rights of Suspects

Police Interview- Rights of Suspects (PIROS) is completed electronically by custody staff on the National Custody System (NCS) during processing in a custody suite. PIROS contains all relevant information pertaining to the suspect’s rights and choices made by the suspect. This can be printed from NCS and lodged as a production if required.

Individuals have the right to seek advice from a solicitor at any time whilst they remain a suspect. They may request advice from a solicitor at any time, even if they have previously indicated that they did not.

Where suspects change their mind this must be accurately recorded in the PIROS section on NCS by custody staff and reference made in the report.

When a suspect requests a consultation with a solicitor (telephone or in person) this should be referred to in the Police interview / text of admissions summary indicating that full details are contained in the PIROS section on NCS.

Whenever a suspect’s status changes the following must be recorded:

* That the suspect was provided access to a solicitor, the means of access to the solicitor (telephone or in person) and whether the solicitor was present during the interview, all this should be noted in the Police interview / text of admissions prior to outlining any questions / answers. The reporting officer can confirm that all details are recorded electronically on NCS in the PIROS section.

Or

* That the suspect waived their rights to a solicitor, and that the decision was recorded electronically in the PIROS section on NCS. The Criminal Justice (Scotland) Act 2016 only allows the following suspects to waive their rights to a solicitor –
* Person is 18 or over and can waive the right to a solicitor;
* Person is aged 16 or 17, not Under Supervision and their relevant person does agree with their decision.

This must be included in the Police interview / text of admissions section prior to outlining any questions / answers. The reporting officer can confirm that all details are recorded electronically on NCS in the PIROS section.

### Format of recording

Indication must be given if the utterance was recorded in a notebook, mobile device or whether a tape or DVD was used.

### Summary of interview

Unless the case relies on Special Knowledge it is acceptable that the interview can be summarised with the most salient points reproduced verbatim, where the interview is lengthy.

If an admission is made then the question leading to the admission and any answer given must be reproduced in full. It would not suffice, for example, simply to indicate that the accused freely admitted the offence, or the like.

The rule is that the SPR must contain sufficient information about the interview to enable the PF to decide whether to prosecute without transcribing or listening to the recording.

This is particularly important for custody and undertaking cases which are marked with some urgency. Through disclosable summaries, the actual words used by the accused in admitting the crime will be instrumental in obtaining a plea of guilty at an early stage.

At the very least the case must contain the actual words used by the accused which are pertinent to each charge. If an accused put forward any explanation that should also be included.

In circumstances where the interview relates to several crimes / charges, indicate which one, (e.g. ‘Theft at Tesco’) within the pertinent section of the admission.

The full interview must be related in statements.

## Caution and Charge (Disclosable)

Evidence of any caution given and the charge of an accused must be included under this heading. State clearly which witnesses were present and any reply made.

Make it clear, in all cases, whether or not accused understood the charge.

## Analysis of Evidence (Disclosable)

The whole point of this section is to provide a synopsis of each witness’s evidence to the PF and to establish who speaks to that evidence.

### Identification

The reporting officer must indicate whether each witness can identify the accused or not. This can be expanded upon within the “speaks to” field as required.

This section should include a specific reference to how the witness can identify each accused. If the witness knows the accused then an explanation of how the witness knows them should be given.

Where identification can be related to particular items of clothing, marks, scars or voice, this information should be included in this field.

### Brief summary of evidence of witnesses

For each witness it is necessary to summarise the evidence they speak to and the nature and strength of their identification of accused. For example:

“Police witness Simons speaks to accused standing in High Street with his shirt off, and holding a knife. She also speaks to arresting the accused and thereafter cautioning and charging him in the presence of police witness McKay. She also speaks to recovering the knife in the roadway and seizing it as a production. Police witness Simons can identify the accused.”

“Witness Bonthrone speaks to the accused removing bottles from the display but can only identify accused by the clothes he was wearing.”

“Witness Haldane speaks to witness Graham lying injured in the street. He also saw the accused walking away from the area. Witness Haldane knows the accused from school, but cannot identify him as the person who assaulted witness Graham.”

“Witness Davidson can speak to his house being broken into and the property stolen but cannot identify accused in any way.”

## Details of any known defence

If there is a known defence or any other exculpatory information which has been obtained or generated during the investigation which would tend to exculpate the accused, whether by weakening the prosecution case or strengthening the defence this must be included within the report.

Any information that is in the possession of any other agency, i.e. linked enquiries, cross-boundary and borders investigation must be included.

This will serve as a warning to the PF of the likelihood of a special defence e.g. alibi, self-defence, provocation.

As with the reason for warrant request, this specific section may not be included in the IT system used to generate an SPR**.** If the IT system does not have a dedicated area this information must be included in the summary of events section of the report.

### Enquiry into defence

Where there is evidence that an accused is not the perpetrator or that his responsibility for the commission of the offence was diminished by some other factor (e.g. actions of another person) this will require to be specified and must be investigated).

The investigating officer is responsible for ensuring that full and thorough enquiry is made prior to submission of the report.

If prior investigation is not possible for some reason, then that reason must be specified, and the results of the investigation must be reported as soon as possible thereafter.

## Further Enquiry (Non-Disclosable)

This section allows the reporting officer to indicate to the PF what further enquiries are still to be undertaken by the police, and what scope there is for further enquiry.

## Remarks / key information (Non-Disclosable)

This is the reporting officer’s conduit for communicating with and relating information to the PF. Reporting officers should stick to the point and ensure that the information being passed is relevant and concise.

This section must be used to reveal any sensitive information to the PF which is non-disclosable to the defence, for example: Intelligence, RIPA documents, CYCOMMS information etc.

The reporting officer should include in this section:

“There is no relevant intelligence material in this case”

Or

“Relevant intelligence material was used in this case”

When reporting any misuse of drugs supply or concerned in the supply charges the STOP Unit must be consulted to provide a statement of opinion. The named drugs expert (STOP Unit) should not automatically be included in the list of witnesses for giving this opinion where they have no other involvement in the case but their details should be recorded in the remarks section of the SPR.

Reporting officers should include in this section whether any of the witnesses have “Caring Responsibilities” as this will assist the PF in the future planning of the case.

This section can also include a wide variety of additional information relating to the incident such as:

* Information concerning the reliability and credibility of witnesses.
* Difficulties regarding witnesses or late reports.
* Specialised information in drug related or other serious crime.
* Clarification of any aspect of the report due to its complicated, elongated or serious nature.
* Opinion or comment may be offered in this section. It is the reporting officer’s opportunity to bring any points of information to the PF’s attention.
* Is there cause to believe that the accused may attempt to intimidate witnesses?
* Did accused express any remorse in casual conversation?
* Is accused suspected of similar crimes as yet unproved?
* In cases involving damage, has the accused expressed willingness to compensate the victim or has he been asked to and has refused?
* Highlighting an accused who may be deemed appropriate for deportation.

There are no hard and fast rules as to what may be included in this section, but all entries must be relevant to the case.

### Forfeiture of motor vehicles initiative

In relation to all cases of Section 4 or 5 of the Road Traffic Act 1988 where vehicle forfeiture is applicable the following information should be included under the heading**,** Drink and Drug Driving Vehicle Forfeiture Initiative:

1. Vehicle make
2. Vehicle registration mark
3. Vehicle owner
4. Value of vehicle
5. Whether there is outstanding finance on the vehicle
6. Amount of finance outstanding (if applicable)
7. Name of finance company (if applicable)
8. Type of finance, e.g. Hire purchase / lease purchase / bank loan (if applicable)
9. Location of vehicle (if known)
10. Location of keys and vehicle registration documents (if known)

### Racial incidents

For all racial incidents the following information should be included:

#### Language and cultural needs assessment of the accused

The accused has identified him / herself as (ethnic / religious background).

The preferred speaking language and dialect of the accused is

The preferred written language for the accused is

The interpreter was not used / was used by police, and this was facilitated by (name, address and contact number of interpreter)

An interpreter is required / not required for court, and must be fluent in (language & dialect required)

#### Perception of the victim

On interviewing the victim of this incident, witness........., he / she is firmly of the belief that the motive for this incident is racist / non racist.

#### Perception of the witness

On interviewing the witness .............., they are firmly of the belief that the motive for this incident is racist / non racist.

#### Language and cultural needs assessment of the victim / witness

The victim / witness....... has identified him / herself as (ethnic / religious background)

The preferred speaking language and dialect of the witness.....X is

The preferred written language for the witness....Y is

The interpreter was not used / was used by police, and this was facilitated by (name, address and contact number of interpreter)

An interpreter is required / not required for court, and is fluent in (language & dialect required)

#### Impact

As a result of this incident, the impact on the victim has been.........

As a result of this incident, the impact on the victim's family has been.........

As a result of this incident, the impact on the victim's community has been.......

As a result of this incident, the impact on the victim's property has been.......... (If applicable)

The perception and impact should be repeated for each victim or witness.

## List of witnesses

The civilian witnesses should be listed first followed by the police witnesses.

### Required particulars

Civilian witness details must include:

* Date of involvement.
* Full name.
* Age.
* Date of Birth.
* Place of Birth.
* Occupation.
* Disclosable address.
* Nationality.

All of the above, with the exception of occupation, can be required from witnesses (if necessary) under powers prescribed in Section 13 of the Criminal Procedure (Scotland) Act 1995.

Civilian witness details should include:

1. Home, mobile and business telephone numbers and email addresses.
2. Dates Unavailable

The following areas also require completed when witnesses are being created on the SPR.

1. Does the witness perceive this to be a Prejudice Incident? (The evidence may contradict this belief but it is the witness’s perception that is being recorded).
2. Does the witness have any Cultural or Religious needs?

### Disclosure issues

A disclosable address must be given for each witness. This may be a home address or a care of address, however it will be provided to the defence if requested.

The PF can use the non-disclosable addresses in the SPR to cite and to precognose witnesses but cannot disclose these details to the defence.

If a witness provides their home address they must be made aware that their address may be disclosed to the defence and asked if they are happy with their home address being disclosed.

If they do not grant permission, or if their opinion on the matter was not asked, then the following must be entered in the disclosable address section:

* C/O Police Service of Scotland.

Or

* Business address (only if appropriate, if for example the locus of a shoplifting was the witness’s place of business).

The witness’s home address must then be entered in the non-disclosable address field.

If the witness is giving evidence that relates to their work, it is their business address that appears on the witness list, but their home address should still appear in the non-disclosable address field.

When the relevant statement is submitted, the disclosable address and the non-disclosable address must reflect exactly what has been put on the SPR.

### Police witnesses

For Police witnesses the following information must be included:

1. Date of first involvement.
2. Shoulder number.
3. Division.
4. Rank.
5. Name.
6. Annual leave dates. (This is important, for the reporting officer personally as well as the PF and the Court when setting trial dates. If the reporting officer is cited for a trial during their holidays and holiday dates were not listed they may have difficulty being excused).

Police officers who witnessed something of relevance to a case whilst off duty will be listed as civilian witnesses.

## Productions

All productions recorded within the production section of the report must be referred to in the summary.

This section should include details of any items which have been sent for forensic analysis, and any results if available.

Remember what you first name your production, it must be replicated thereafter when making any reference to it. It should be called the same thing within a search record, in your notebook / mobile device, on the label, in the production book / IT system, production form and in the SPR.

It is best practice that any description attributed to the item seized should be specific and unique to that item, it must also make sense to someone reading the SPR at a later date.

Production owner and contact details should be listed in full to allow return of items.

## Other information included in reports

### Offensive weapons

In offensive weapon cases, particularly with knives, always include a description of the weapon and an indication of the size of the blade, does it lock therefore a lock-back knife etc.

### Drugs offences

Include classification, weight (or number of tablets) and value of any controlled drugs seized.

### Assaults

If the victim of an assault suffers from a prolonged or particularly vicious attack it assists the PF if details of how many times the victim has been struck, stamped on or stabbed is included in the SPR.

## Statements

### Introduction

This guidance is intended to inform police officers on the required style and content of civilian and police statements.

The police have a responsibility to provide Procurators Fiscal with statements that accurately detail the evidence that a witness can speak to.

Taking and writing statements requires the police officer to develop skills that ensure sufficient and relevant information is obtained.

Statementsmust notrefer to other statements, for example by saying“I fully corroborate witness X”

Abbreviations must not be used in the narrative.

### Purpose of statements

A statement will clearly inform the Procurators Fiscal what the evidence of a civilian or police witness is in order to prove a case, as well as any evidence that may be used by the accused in his / her defence.

In certain circumstances, e.g. death or permanent absence from the country, statements may be used in court instead of the oral evidence of the witness. It can therefore be readily seen that complete and accurate statements are essential if this is to happen.

If a witness fails to remember the events at the material time, when called to do so at trial, then a statement signed by the witness and acknowledged by the witness as having been made to the police, can be used in court to lead the evidence of that witness.

### Content of statements

Statements must be written in chronological order and be factual. Although the statement is a product of an interview between the officer and the witness, the language should reflect that of the witness, and the witness must be able to understand the content of their statement.

There should be no confidential information or reference to confidential information in the statement.

The statement will primarily describe a specific incident or series of incidents in which the witness has become involved. In order to inform the reader of the circumstances it may be necessary to include some of the following points:

* the reason for the witness’s involvement.
* the events leading up to the incident.
* a description of the locus.
* the weather.
* position of vehicle occupants.
* where witnesses were positioned in relation to the incident.
* Relationships between witnesses / accused e.g. brother, aunt etc.
* Language, cultural or religious requirements.
* Do they know accused? If so, how do they know accused?

### Use in court

The PF requires to lead a witness through his or her statement and therefore needs details of facts and circumstances to do this. Statements that consist of a few lines are, without doubt, insufficient for the purpose. Similarly those containing vague generalisations, particularly in such matters as time, speed, and place and so on are inadequate. If a witness is unable to speak to an issue that a police officer considers an important aspect of evidence then this should be stated.

The statements of witnesses should facilitate the taking of their evidence in court. They should not be a voyage of discovery for the PF.

### Civilian witness statements

#### Noting

Civilian witness statements are generally prepared on the basis of an interview by a police officer and normally the police officer should write the statement on behalf of the witness.

The statement is an interrogation of the witness in order to obtain all relevant information.

Ask open, clarifying and probing questions. Do not ask leading questions.

#### Timing

A statement should be taken from a witness as soon as possible after the event to which it relates. This helps to ensure that the witness gives an account that is not influenced unduly by other witnesses or events.

If circumstances do not permit a detailed statement to be noted when police attend an incident, then witnesses must be revisited at an appropriate time, when comprehensive details may be obtained.

When revisiting a witness following an event, officers must be aware that with the passage of time, there is the potential for the evidence of a witness to become contaminated.

#### Segregation

When statements are to be taken from a number of witnesses to the same incident each should be taken individually and out with the presence of other witnesses.

#### Wording

It is appreciated that the witness statement is rarely a verbatim account of everything the witness has said. It is however important that it does contain everything of significance to the case, including anything which is helpful to the defence. The principle exceptions will be tape-recorded interviews and voluntary statements, but these will normally have been taken from suspects.

Since the COPFS and defence, may put to a witness what he or she apparently said in a witness statement, it is important that the statement does contain, as far as possible, the actual words of the witness. This is not an excuse for taking a two line statement from a witness, as a police officer is entitled to ask probing questions in an effort to jog a witness’s memory or to clarify points in that statement. In addition, the statement of a child, for example, should reflect the language used by that child.

Some witnesses will be and able to express themselves more clearly than others. The skill for the police officer is being able to obtain, from witnesses, sufficient accurate information that will inform the PF what the witness can speak to. A witness should be questioned in such a way that they can express themselves clearly on the important issues of the case.

There is a need to balance a verbatim account of the incident with a comprehensible statement but not to paraphrase the words of a witness into what are the words of a police officer. Particular difficulties arise where statements of several eye witnesses are worded in almost identical fashion so that it becomes clear that the evidence of each witness has been filtered through the mind of a police officer.

In the case of children, where the child’s statement has been essentially translated into adult language, there is difficulty in assessing the ability of the child to articulate what they have seen.

#### Dialect and Colloquialism

The statement must be noted in clear language that can be understood by all readers. For this reason dialects should not be included in written statements. Where a witness uses colloquialism, jargon, or technical language, this should be written as said by the witness and then an explanation given in brackets.

#### Use of brackets

When the witness speaks about a person or locus it will be necessary, when the time comes to type the statement, to clarify who these people are or where the locus is by including the information in brackets. Indeed where the witness speaks about anything that requires explanation then brackets should be used. This does not affect the disclosure business rules in any way and is acceptable practice, indeed it is encouraged by Procurators Fiscal.

#### Time

Rarely will witnesses use the 24-hour clock when referring to times. It is acceptable to write the time as expressed by the witness with the 24-hour equivalent in brackets thereafter.

#### Identification

Avoid using the phrase ‘I can identify the accused’, it is a phrase few witnesses would use and gives the impression that the witness is being led through their statement. Most witness would respond to when asked if they can identify accused with ‘I would recognise the person who stole my car’ or a similar phrase.

It is also helpful for the witness to explain why they can identify accused and in what way.

#### Signing

At the end of every civilian witness statement taken, the following sentence will be included:

“I confirm that this statement is a true and accurate record”.

The witness should then be given the opportunity to read over their statement and must be asked to sign it after the sentence.

In cases of obtaining statements from children, both the child and the adult who granted permission and observed the statement being taken should sign the statement.

Officers should ensure that witnesses sign their statement on every single occasion, so that it becomes normal practice and the only statements without, are from those witnesses that refuse to sign.

The typed statement, as provided to the PF, must indicate whether the witness has signed the statement in the officer’s mobile device or elsewhere.

Good practice dictates that the interviewing officer and any other officer present should also sign the record of the interview and that should be similarly noted in the typed statement.

#### Absent witnesses / deviation in court

Officers must be aware of the impact of Sections 259 and 260 of the Criminal Procedure (Scotland) Act 1995, with regard to statements noted from witnesses. In defined circumstances, these provisions allow the statements of absent witnesses to be used in criminal proceedings. They also allow statements supplied to the police to be put to a witness during a trial, should they fail to deliver the evidence contained in that statement.

If a PF is to use this legislation, accuracy in the completion of witness statements is vital.

#### Additional information / statements

Where a number of separate statements are obtained from a witness, all must be supplied to the PF.

#### Dates of Unavailability

COPFS have made it clear that the inclusion in all statements of witness’s holiday / leave dates is necessary to allow them to organise the court programme.

It is acknowledged that in some cases dates are not always available. However many witnesses do take recognised holidays on specific dates and these should be obtained and listed.

Witness statements must also always include the witness’s contact telephone number in the confidential part of the statement. That is of great assistance when they require to be countermanded.

#### Defence statements

On occasion the PF may request the police to obtain a statement from a witness who will be giving evidence for the defence.

This will be taken in the same manner as that of a civilian witness for the prosecution.

Such a statement can be obtained by any police officer even though they have had previous involvement with the case. The exception will be the case where the officer concerned is a victim or a complaint has been made against the officer. Good practice in such cases is for the statement to be taken by another officer unconnected with the case.

#### Police witness statements

A police witness statement will give the fullest possible account of the evidence which the officer is expected to give. In court the officer may be expected to recall further evidence under probing that did not come to mind when giving or preparing their statement.

The Courts expect, and are entitled to expect, that a statement submitted in the name of a police officer has been prepared by that officer and contains an accurate and reliable account of the evidence which they can give, from their own recollection and notes.

#### Wording

A police officer must be able to write a detailed account of their evidence in as succinct a manner as possible. Plain English must be used and jargon should be avoided. Do not use abbreviations.

The introductory part of the statement should set the scene and could include some of the elements listed under Content of Statements above. Certain aspects may be more appropriately described at a later stage.

Statements should always be written in the 1st person “I did... I saw, I signed the label, etc.”

#### Compilation of a police statement by another person

A police officer’s statement must not be compiled by another. Each police witness must write and verify their own statements.

#### Availability of statements to the defence

All statements are routinely disclosed to the defence. Defence agents are increasingly making use of these statements in court whilst cross-examining witnesses. As a consequence, the accuracy of statements that police officers submit, both on their own behalf and those taken from civilian witnesses is under more scrutiny.

Care must be taken to ensure that confidential information is not inadvertently given out, bearing in mind that an accused may choose to represent themselves or may be given statements by the defence agent.

There are specific areas and fields in the statement process to detail confidential information such as telephone numbers and home addresses.

#### Listing of productions within statements

The way productions are laid out in written statements can be an area of confusion, in essence**:**

* An object is preceded by LABEL No.
* A label is preceded by PRODUCTION No.
* A documentary production is preceded by PRODUCTION No.

Some examples are given here.

Where anobjectis a production, statements should be written in the following way.

“I was then shown a:

LABEL No. BICYCLE

which I identified as my property and signed a label to that effect. I valued the bicycle at £125.”

Where the object is returned in lieu of a label, thelabelbecomes the production.

“I then showed witness Smith a bicycle, which she identified as her property, valued at £125. She then signed a

PRODUCTION No. A LABEL IN LIEU

to that effect, and the property was returned to her.”

Remember too that documentary productions (as distinct from case related documents) are always preceded by:

PRODUCTION No. A DOCUMENT

#### Caution and Charge

Best practice dictates that full caution and charge details should be included in each statement.

## Statement writing – an example

The following is an example of a civilian witness statement that is of the required standard when taken by a police officer.

I live at 68 High Street, Brookbank with my parents. Last night I went to the club with my friends, Jim, Tim and Bobby. We went into the town at about quarter to 12 having been at the Hawthorn and the Lea Rig. I have been drinking all day because I have been to a christening and would have had about 10 pints of lager and 6 Jack Daniels and coke. About half two, Jim, Tim and Bobby left because we thought it had finished. We come out the front door and walked around the back and we realised it was open till three o’clock. We walked around the back and had a fag. As we were going back I was at the back with Jim, Tim and Bobby were in front of me.

I was wearing a black shirt, black trousers, and black shoes. Jim was wearing the same as me. Billy was wearing jeans but I can’t remember what colour top.

Josh was wearing a multi coloured top with jeans. Whilst we were on the steps, someone said something to Bobby and Bobby said something back. They agreed to go outside for a square go. I then followed them outside. They started fighting outside just at the corner of the cobbles at the Constitution Road.

Bobby and the boy that he was fighting with had a white top and they were hitting each other but his mates were saying, "Just leave them, it’s a square go".

Bobby began getting the better of the boy and two of his mates just jumped in. I can’t recall what they were wearing, but all three were laying in about him.

I ran up to one of the boys that had jumped in and was standing in the street and punched him. I then punched the other that had jumped in. At that I got jumped on and the rest of them began kicking and punching me. I felt myself getting stabbed in the front and the back and a short time later I fell on the ground and when the police were chasing the people up the road up the Constitution Road.

I got an ambulance to hospital and have got five stab wounds on my body but I didn’t see a knife. I don’t know the persons responsible and wouldn’t know them again. I have had my clothing taken off which has been handed to police. My clothing consisted of trousers, shoes, t-shirt, shirt and I signed a label to identify them. When I was lying on the ground my friends came to help me and the doorman came running up and punched Josh in the puss. I would know him again but not any of the males who stabbed me.

The following statement is what would be expected when the statement is transferred verbatim from the notebook into the police system:

I live with my parents.

Last night (Sunday 6th January 2008) I went to the club (The Lounge, Chestnut Way, Brookbank) with my friends, Jim (witness Saul), Tim (witness Smith) and Bobby (witness Jones). We went into the town at about quarter to 12 (2345 hours) having been at the Hawthorn and the Lea Rig.

I have been drinking all day because I have been to a christening and would have had about 10 pints of lager and 6 Jack Daniels and coke.

About half two (0230 hours on Monday 7th January 2008), Jim, Tim and Bobby left because we thought it had finished. We come out the front door and walked around the back and we realised it was open till three o’clock. We walked around the back and had a fag.

As we were going back I was at the back with Jim, Tim and Bobby were in front of me. I was wearing a black shirt, black trousers, and black shoes. Jim was wearing the same as me.

Tim was wearing jeans but I can’t remember what colour top. Bobby was wearing a multi coloured top with jeans.

Whilst we were on the steps, someone said something to Bobby and Bobby said something back.

They agreed to go outside for a square go. I then followed them outside. They started fighting outside just at the corner of the cobbles at Constitution Road.

Bobby and the boy (accused Thomson) that he was fighting with had a white top and they were hitting each other but his mates (accused Phillips and West) were saying, "Just leave them, it’s a square go".

Bobby began getting the better of the boy and two of his mates just jumped in. I can’t recall what they were wearing, but all three were laying in about him.

I ran up to one of the boys (accused West) that had jumped in and was standing in the street and punched him. I then punched the other (accused Phillips) that had jumped in.

At that I got jumped on and the rest of them began kicking and punching me. I felt myself getting stabbed in the front and the back and a short time later I fell on the ground and when the Police were chasing the people up the road (Constitution Road).

I got an ambulance to hospital and have got five stab wounds on my body but I didn’t see a knife.

I don’t know the persons responsible and would not recognise them again.

I have had my clothing taken off which has been handed to police. My clothing consisted of

LABEL NO. TROUSERS

LABEL NO. LEFT SHOE

LABEL NO. RIGHT SHOE

LABEL NO. T-SHIRT

LABEL NO. SHIRT

and I signed a label to identify them.

When I was lying on the ground my friends came to help me and the doorman (witness Kerr) came running up and punched Jim in the puss.

I would know him (witness Kerr) again but not any of the males who stabbed me.

I confirm that this statement is a true and accurate record.

## Ancillary reports / memorandum

PF Deputes regularly require clarification of points mentioned in a SPR. They do so by requesting information by way of a memorandum to the reporting officer.

The reporting officer must respond by means of an ancillary report.

The four documents that make up an ancillary report are:

1. Subject Report - Used to convey details of new accused, accused addresses and / or additional charges.
2. Production Report (PR) - Used to convey details of new Productions.
3. Witness Report (WR) - Used to convey details of new Witnesses, Witness Addresses.
4. Memo (ME) - Used to convey any relevant textural information relating to a case where the SPR has been previously submitted.

The sections within an ancillary report are:

1. Accused – Used to convey details of existing accused address changes only and full details of new accused.
2. Charges – Used to link new accused to existing charges or add brand new charges linking new and old accused to them.
3. Witnesses – Used to convey existing witness address changes only and full details of new witnesses.
4. Police Witnesses - Used to convey details of Police witnesses only.
5. Productions – Used to convey details of new productions only.
6. Compensation - This operates in the same manner as per SPR and only requires completed if compensation ‘Yes’ flag set within charges section.
7. Memo – Must be completed on all occasions and used to convey textual information which is not contained within the other sections and / or explain further the reason for new witnesses / accused, updated witness / accused addresses, new charges etc. and new productions. The memo may contain some pre-populated text depending on the other areas completed. This should be a concise update highlighting the new information only, not a copy of the SPR including the new information.

Complete these sections of the ancillary report as required to populate the documents as required by the COPFS.

## Occurrence reports

The occurrence report has been created to facilitate the police reporting circumstances of serious crime to the PF where the investigation has identified a suspect and the police require advice or direction relative to further investigative efforts.

COPFS guidance is that an occurrence report is submitted in a case where there is a genuine query over sufficiency or need for guidance. They should not be used as a mechanism for COPFS to simply endorse difficult operational decisions which are taken by Police Scotland in cases where there is insufficient evidence to report an accused.

Occurrence reports are required to comply with the COPFS business rules.

A distinction requires to be drawn between sexual and non-sexual cases. The occurrence report will therefore be classified into two distinct types.

1. Advice & Direction (Sexual);
2. Advice & Direction (Non-Sexual).

The user will select the appropriate category depending on whether a charge contains a sexual element.

Advice or direction may be sought in relation to matters such as:

1. The direction of investigation, in particular to specialised crime investigation, such as serious and complex fraud.
2. The sufficiency of evidence to libel charges.
3. Whether further investigation is in the public interest or if the cost or duration of the investigation would not add to the furtherance of the case.

When completing an occurrence report the reporting officer should state clearly at the beginning of the summary section the specific question on which advice or direction is being sought. They should thereafter provide sufficient background information to allow the PF to consider the matter and advise accordingly.

Occurrence reports will follow a very similar format to the creation and completion of an SPR, as the intention is to pass as much information to the PF as possible. However certain sections and fields have been altered or removed to simplify the production of an occurrence report. This is most obvious in the charge section where only a lead charge title is required and there is no need for modifiers or caution and charge information. There is also no requirement or facility to link a charge to an accused.

The main differences with occurrence reports are detailed below:

### Charges

Only a lead charge is required within an occurrence report. There is no requirement for any additional charges but at least one charge must be included before submission.

If a user does want to bring to the attention of the PF any additional charges, they can be added if required.

Only basic charge details are required (charge header) along with the date and an indication whether the charge has a sexual element to it.

### Summary

When completing an occurrence report the reporting officer should state clearly at the beginning of the summary section the specific question on which advice or direction is being sought. They should thereafter provide sufficient background information to allow the PF to consider the matter and advise accordingly.

This is the main body of the report and should be used to state clearly and concisely the nature of the events that took place.

Explain briefly what the case is about and describe the actions of the civilian and police witnesses.

The summary should continue as a running narrative, in chronological order, relating to the facts as they happened and making clear the involvement of each of the witnesses.

## Sudden Death Reports

### Details

Details regarding the investigation of deaths are contained within Investigation of Death National Guidance. The following details are required in a Sudden Death Report (SDR):

* 1. The name, age, address including post code, sex, and occupation of the deceased.
  2. Whether the deceased was single, married, or widowed.
  3. Whether the deceased was subject of adult protection measures. (This is mandatory information that can be obtained from the GP. GP’s are notified by Social Work following case conference as to whether their patient is under Adult Support & Protection Measures. They have specific vulnerability codes which should be updated on their system and this information should be provided to Police when they obtain the medical history for the SDR).
  4. The date, hour, and place of death.
  5. The cause of death (if known).
  6. The duration of illness (if applicable).
  7. The name and address of the medical practitioner who pronounced life extinct.
  8. Name, address and contact details of the principal family contact for the deceased.
  9. The names and occupations of the deceased person's parents and whether they are alive or dead.
  10. The place of burial or cremation (if known).
  11. The registration district in which the death occurred.
  12. The name and address of the undertaker (if known).
  13. The names, ages, occupations, addresses and statements of witnesses.
  14. If the deceased or family members have any cultural / religious needs or differences or there are cultural / religious differences between the family and next of kin these should be noted at this time. (The needs or differences should be noted and an explanation of these given in the free text section headed 'Cultural / Religious Needs').
  15. CHS number and / or the Driver number (if applicable).
  16. The name and address of the medical practitioner who certified death (if known).

### Time and date

The time and date of death is the date and time life is pronounced extinct by a qualified medical practitioner. It is not the time when the body is discovered.

If the remains are so badly decomposed or an obvious decapitation has occurred that no Pronounce Life Extinct (PLE) is required by a medical practitioner, the time and date of death is when the body is found by the police witnesses and this should be recorded in their notebook / mobile device and in the death report.

If known the report should contain the last time the deceased was seen alive and / or was actually last spoken to.

The date and time 'made known' is when the police become aware of the death.

### Identification

The details of the person(s) identifying the deceased, their relationship to the deceased, the locus, date and time should be noted.

If there are no persons available at the time to formally identify the deceased have they been identified by any photographic identification at locus?

Any photographic identification should be seized and lodged as a production.

Have they been identified by their CHS photograph?

If the remains are so badly decomposed that they are no longer visually identifiable, then full circumstantial evidence should be included in the report such as any letters pertaining to the deceased at the locus, details of all persons who have tenancy at the locus. Is their name on the door?

A full physical description such as height, build, hair colour, scars and tattoos should be included.

Please state whether or not they are still able to be fingerprinted and if fingerprints and / or DNA is held by Police.

In the case of suspicious deaths, two witnesses are required to identify the deceased.

### Suicides

If officers attend a suicide where the deceased has left a suicide note, this should be seized and lodged as a production.

A photocopy of the note should be sent via email to the relevant Deaths Unit in order it can be sent to the PF with the report.

### Summary

Despite the fact that there are often challenges in gathering facts at such an emotional time, it is important that a detailed account of events is described in the summary.

The summary should describe the events leading up the death and the subsequent enquiry. This includes details of the last known movements of the deceased, the events known about the death and the actions of all witnesses involved before during and after the death. Any suspicious circumstances must be indicated.

Every effort should be made by the reporting officer to trace a next of kin for the deceased and inform them of the death, interrogation of all police systems may assist in tracing a family member. If this still proves negative highlight in the report to the Deaths Unit no next of kin traced.

Whether the deceased was subject of adult protection measures.

If the reporting officer cannot ascertain this information at the time of report highlight this as unknown.

Name, address and contact details of the principal family contact for the deceased as this will assist in further enquiries.

Location of deceased – where has the deceased been removed to?

### Medical history

The medical history is normally ascertained from the family doctors, who have a duty to provide this information. As full a history as possible should be recorded.

All medication, including type, weight, quantity, prescription rate (how many should be taken how many times a day) and purpose, should be noted.

Reporting officer should indicate whether a pacemaker or any other medical equipment was fitted to the deceased.

### Pronounced Life Extinct

Details of the doctor or authorised paramedic personnel who attended at the locus and pronounced life extinct must be recorded.

Their details should also appear on the witness list. The doctor’s GMC number should be included.

### Deceased’s family doctor details

The doctor with whom the deceased was registered should be noted.

### Details of doctor certifying death

This is the doctor who completes the death certificate. Where a post mortem has taken place this will be the Pathologist. In this case these details may not be known by the reporting officer when initially submitting the report.

### Further enquiry

If there are outstanding enquiries then they must be listed so that interested parties are aware of what is still to be done. If the deceased has pending cases the PF must be made aware in order that all correspondence to the deceased is ceased.

### Burial / cremation details

Time, day, date and locus of burial or cremation and also the undertaker’s details if known should be included in the report. If cremation is intended indicate whether a pacemaker or any other medical equipment is fitted to the deceased.

### Additional details

In certain circumstances additional details may be required as follows:

### Death as a result of a fall

Where the death appears to be as the result of a fall, not a straightforward collapse, the reason or possible reason for the fall must be given. This is particularly important where the locus is a public place, place of work or place to which the public have access such as a hospital, nursing home or shop.

### Industrial accident

If the deceased dies in the course of their employment, whether in a workplace or even driving a vehicle, such as a sales rep or lorry driver, then this is classed as an industrial accident. This means that the Health and Safety Executive should be informed. The appropriate section should be completed with the required details which include the employer’s details and full address (including postcode) and telephone number.

### Apparent drug related deaths

If the death is suspected to be drugs related, then certain additional details must be included such as:

* Drug suspected to have been taken
* Method of administration; e.g. injection, smoking etc.
* Paraphernalia discovered at locus
* Known history of drug abuse:
  1. Known medical history including whether a registered addict, casual user, methadone programme
  2. Drugs deceased was known to abuse
  3. Any infection risk such as HIV, Hepatitis
  4. Was deceased a recovering addict or known to be “clean”
     + Any relevant criminal history.

If Scenes of Crime Examiners have attended at the locus and obtained still or video images this should also be intimated in the report.

### Sudden unexpected death in infancy (SUDI)

Despite the fact that there are often challenges in gathering facts at such an emotional time, additional information which will be useful to the Pathologist during post-mortem examination should be included in the report as follows;

* Particulars of birth weight and type of birth.
* Time and type of last feed and how fed.
* Exact locus of death
* Exact position of the cot if the child died there, were any windows open in the room, etc.
* Has the room changed since time of death?
* Size and conditions of the rooms and how ventilated and heated.
* Condition of home address.
* Particulars of the parents and other children in family.
* History of other child deaths in the family, mother's health and any illness the child has suffered.
* Do parents / guardians smoke?
* Infant sleeping position.
* Type of pillow (if any) and blankets used by the child.
* External appearance of the body (injuries, bruising, malnutrition).
* History of visits by the family doctor or health visitor and visits to clinics.
* Clothing worn by deceased.
* 'At Risk' register checked for any record of family violence? If yes give details.

## Report writing – useful information

The following information may be of use when constructing reports:

### Children and Young Persons (Scotland) Act

Just because an accused is the child’s (victim) parent does not mean that every offence should be reported under the statute. If, for example, the case is one of assault, then it should be charged as such. The exception would be if the assaults formed part of a pattern of ill treatment.

When reporting cases under the act distinguish between neglect and abandon. A far higher degree of intensity is required for the latter. The conduct must be in a manner likely to cause unnecessary suffering or injury to health.

A list of potential dangers at the locus should be given. If the child is on the ‘At risk register’ or has any Social Work Department record or file, details of these should also be included.

### Drink / Drug Drivers

#### Section 4 Road Traffic Act 1988

It is essential that police officers include their observations of the behaviour of accused. Guidance on this should be obtained from the Legal Database.

Any delay between the time of arrest and the time of examination by the FME should be highlighted in the description of events.

The points described in the notes to Section 4 of the Road Traffic Act 1988 within the Legal Database must be covered in the report in order to prove the charge.

#### Section 5 Road Traffic Act 1988

If the intoximeter is unreliable then it is only competent to proceed to take blood or urine if there is no other intoximeter available. It is therefore essential that the officers involved be in a position to state that there is no other intoximeter in the police station. This fact must be stated as a matter of course in the report and statements.

If accused refuses to accept any copy of a printout from the procedure this must be highlighted in the description of events on the SPR. The said copy printout should be forwarded to the PF with the case related documents (DD1 etc.) so that it can be served on the accused along with the copy complaint as service of this printout is crucialto prove the case.

#### Sections 6 and 7 Road Traffic Act 1988

In cases of failure to provide a specimen without reasonable excuse the reasonable excuse aspect is frequently ignored. The burden of proof is on the COPFS and if an accused fails to provide a specimen it must be clarified in what way they refused. Whether it be refusing to blow, blowing half-heartedly, blowing down the side of the tube, or apparently doing their best but simply not providing enough breath it must be accurately recorded. Any reason given for not supplying must also be included.

#### Fraud

In cases of embezzlement or fraud, the normal accounting system, procedure or practice should be described first in the description of events. The narrative should then describe how this practice was altered or overcome by the accused to their advantage and the witness’s detriment.

It should be clear in your SPR:

* What was the fraudulent representation?
* What was the advantage obtained?
* Was the advantage obtained as a result of that fraudulent transaction?

This is because it is necessary to prove that accused obtained some advantage, proving that somebody else lost out is not in itself enough.

Further guidance is available via the Legal Database.

#### Perverting the course of justice

If an accused falsely represents that he is John Smith, then obviously that is included in the charge. If he has given a false date of birth, then that is included, but if he has given the correct date of birth there is no need to mention the date of birth in the charge. The same applies with the address.

It is not necessary to include in the charge “the truth being as you well knew that you are James Smith etc.” It is not necessary to prove who the accused is, and it would suffice simply to say that he is not John Smith. It is therefore quite sufficient to say “well knowing the same to be untrue”.

Most reports do not contain sufficient evidence to prosecute. It will not suffice to say, “The accused’s true identity later came to light”. The reporting officer must prove the true identity or that he / she is not the person he / she claimed to be and that must be done by using corroborative evidence.

It should be noted that providing a false name that is actually a known alias is not an Attempt to Pervert the Course of Justice.The fact that a person appears in court under a different name and answers to that name in court is not admissible evidence.

#### Establishing the accused’s true identity

It is essential to include details of how the accused’s true identity was established as follows:

* + - 1. If it was from the ‘Livescan’ record or inked fingerprints the persons who took the fingerprints are required as witnesses.
      2. If it was because another officer knows and can identify accused, that officer is required as a witness.
      3. If the identity was confirmed by photograph held on their criminal record that must be stated.

#### Racist incidents

The following are examples of charge styles which may be appropriate when reporting racist incidents:

#### Racially aggravated harassment

Between 25th July and 25th August 1999, both dates inclusive, at High Street, Brookbank, you did pursue a racially aggravated course of conduct which amounted to harassment of a person namely John Smith, (address) and did;

(a) On 25th July 1999, shout racial remarks, swear, threaten said John Smith and his family with violence and threaten to damage his property;

(b) On 30th July 1999, shout racial remarks and swear;

(c) On 25th August 1999, shout racial remarks, swear, threaten said John Smith with violence, block his path and chase him, contrary to Criminal Law (Consolidation)(Scotland) Act 1995, Section 50A(1)(a)

#### Racially aggravated behaviour

On 25th August 1999, at High Street, Brookbank, you did act in a racially aggravated manner which caused and was intended to cause alarm and distress to a person namely John Smith (address) and you did shout racial remarks, swear and threaten said John Smith with violence, contrary to Criminal Law (Consolidation)(Scotland) Act 1995, Section 50A(1)(b)

#### Breach Of The Peace (Racially aggravated)

On 25th August 1999, at High Street, Brookbank, you did conduct yourself in a disorderly manner, shout, swear and make racist remarks

Remember to include a racial aggravation when completing the charge.

#### TASER® electronic control devices

TASER® is a registered trademark of TASER International Inc. and should be used only to identify TASER® brand electronic control devices manufactured by TASER International Inc. and distributed within the UK by the sole UK distributor, Tactical Safety Responses Limited.

There has been an increase in media reports of high profile criminal cases where reference has been made to ‘TASER’ as a generic term to describe any electronic control device or stun gun, regardless of its source or functions. An incorrect reference of this nature is an infringement of the TASER® brand’s trademark.

Where any electric stun gun or shock device is involved in the commission of an offence care must be taken to ensure that the specific make and model of the device is correctly identified in any related communication. If it is not a TASER® brand product there should be no reference to the TASER® brand.

#### Sexual offences

This is a very complex field. It is advisable to seek guidance from specialised Public Protection Units when reporting this type of crime.

#### Uttering

Specific details of the forged item should be given. If it is a signature then precise detail should be given, e.g. “J Smith” rather than “Mr John Smith”.

The word “fraud” should not appear in a charge of uttering.

When the charge is prepared and a name appears on more than one occasion then the name must be identical on each occasion, e.g. “Mr John Smith” each time not “Mr John Smith” followed by “John Smith”.

#### Vandalism cases

Where officers are conducting enquiries into complaints of vandalism they should ascertain where possible if the accused person is prepared to pay for the damage caused. This is of particular importance where the individual is a first offender. This information should thereafter be incorporated in the SPR to assist the PF to reach a decision in the case.

There is no need to specify the owner in the charge nor is there a need to specify the registration number of a motor car. Keep it simple e.g. “wilfully or recklessly destroy the property belonging to another and kick and break a window”.

## Key contacts

For any advice, guidance or support in relation to report writing please contact your local Case Management Unit, contact details per divisional area can be found below:

**West**

**East**

**North**

Information has been removed due to its content being exempt in terms of the Freedom of Information (Scotland) Act 2002, Section 30 Prejudice to effective conduct of public affairs.

Further Key Information Relating to Report Writing can be found on the CJSD Internet Mini Site:

Case Reporting and Case Management

## Compliance record

EqHRIA completion/review date: 29/04/2024

Information Management Compliant: Yes

Health and Safety Compliant: Yes

## Version control table

| Version | History of amendments | Approval date |
| --- | --- | --- |
| 1.00 | Initial Approved Version | 11/04/2013 |
| 2.00 | Cyclical Review | 21/01/2021 |
| 3.00 | ACRA rider added – no change to content | 11/12/2021 |
| 4.00 | ACRA update to Section 4. Minor wording changes throughout. | 31/03/2022 |
| 5.00 | Minor change made to language used on pages 12 and 14. Addition of Feedback section on final page. | 04/08/2022 |
| 6.00 | Amendment to Section 22 Sudden Death Reports – Additional information relating to Adult Protection Measures. | 29/04/2024 |

## Feedback

All Police Scotland service delivery Policies, Standard Operating Procedures (SOPs) and National Guidance are subject to regular reviews. It is important that user feedback is taken into account when documents are reviewed.

If any officer / staff member wishes to provide comment, or make suggestions for improvements to this or any associated document, Force Form 066-014 should be used.