

Non-Crime Hate Incidents

A chilling distraction from the public's
priorities on policing

David Spencer



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Endorsements

“This report by Policy Exchange is an important contribution to the debate around Non-Crime Hate Incidents. The original intent around Non-Crime Hate Incidents was well intentioned - to try and spot incidents that might lead to racist attacks and crime in the future. Unfortunately, the rules on it have been developed by secondary rather than primary legislation - which has led to little debate about their efficacy. The police clearly have a right to explore incidents to discover intelligence. They can also check the facts to make sure an incident actually occurred. However, they have no powers to investigate and interview ‘suspects’ about those incidents. It is often the investigation of people who are ‘suspects’ in those incidents which is causing most public concern. Whether something is a crime is an objective statutory test. Whether something is a Non-Crime Hate Incident is a subjective test based on guidance - producing inconsistent outcomes. Parliament rather than the College of Policing has to decide whether the police should be investigating people for Non-Crime Hate Incidents and how they are recorded. I would urge Ministers to look closely at this Policy Exchange report to inform the path they intend to take.”

Lord Hogan-Howe QPM, former Commissioner of the Metropolitan Police

“I welcome this contribution to the debate around NCHIs from Policy Exchange. It gives a thorough perspective of the history and evolution of NCHIs and I urge all those in the Home Affairs space to read it, as Ministers consider how NCHIs are being used today.”

Lord Jackson of Peterborough, member of the British Transport Police Authority and former Shadow Minister for Communities and Local Government

About the Author

David Spencer is Policy Exchange's Head of Crime & Justice and a former Detective Chief Inspector with the Metropolitan Police. He was the founding Chief Executive of Police Now.

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Contents

Endorsements	2
About the Author	3
Acknowledgements	4
Summary of Recommendations	7
1. Introduction	9
2. What is the history of Non-Crime Hate Incidents and where did they originate?	12
3. When should alleged Non-Crime Hate Incidents be recorded by the police?	16
4. What is the ‘Additional Threshold Test’ that needs to be met for the police to record personal data within an NCHI?	20
5. Do the police follow the 2023 Code of Practice issued by the Home Office?	22
6. What are the policies of individual police forces relating to the recording of NCHIs and what data do they publish?	25
7. What is the potential impact of NCHIs upon individuals?	29
8. Conclusion and Policy Recommendations	32
Appendix: Timeline of the Allison Pearson-Essex Police affair	36

Summary of Recommendations

- i. The Government should legislate to abolish, in its entirety, the recording of Non-Crime Hate Incidents by the police. Should the Government choose to retain the NCHI regime, they should issue an updated Code of Practice which leads to a substantial reduction in the number of NCHIs record – increasing ‘freedom of expression’ protections and reducing the distraction of police officers from their core mission of fighting crime. This should include no longer record any NCHIs which do not contain personal data.
- ii. The definitions used to meet the threshold for recording of NCHIs should be raised to genuinely meet the standard of ‘Hate’, rather than the current low standard which includes “unfriendliness” and “dislike”. The current standard for “hostility” grossly distorts the perception of the prevalence of genuine ‘Hate’ incidents.
- iii. The Home Office should collate and publish on an annual basis the number of NCHIs recorded per force (splitting out the number of NCHIs containing personal data and the number which do not contain personal data). This data should be published for the previous decade and in future years.
- iv. Should the Government choose not to abolish the NCHI regime, they should pass legislation to mandate police forces to follow the provisions of the NCHI Code of Practice.
- v. His Majesty’s Inspectorate of Constabulary and Fire and Rescue Services should include compliance with the provisions of the NCHI Code of into NCHIs within their annual PEEL force inspection regime.
- vi. All police forces should be required to publish their full policies and procedures in relation to the recording of NCHIs – including making clear on their websites (and other public information systems) the difference between hate crimes and NCHIs.
- vii. The National Audit Office should examine the costs in their totality of the NCHI regime to provide a clear understanding of its impact on policing, national government and local government resources.
- viii. The Government should conduct and publish a rapid, stand-alone, review identifying how often the recording of NCHIs is:
(a) genuinely leading to the prevention of crime and harm, given that this is the principal justification for the recording of NCHIs and
(b) the level of distraction from the core mission of policing to prevent and detect crime.

- ix. The Government should review the current Policing Protocol relating to 'Operational Independence'. The current expansive understanding adopted by many chief constables leads to police forces failing to properly take account of the views of both Police and Crime Commissioners and the Home Secretary – who are accountable to the public and Parliament for crime and policing. It must be made clear that the limits of 'Operational Independence' concern directly operational matters.

1. Introduction

In this policy note we outline the origins of Non-Crime Hate Incidents (NCHIs), the approach by police forces to recording them and their threefold impact: (1) distracting police officers from focusing on what should be the core mission of policing to fight crime, (2) curtailing the employment prospects of individual members of the public through inappropriate disclosures of NCHIs, and (3) having a broader chilling effect on freedom of expression in our society.

The origins of NCHIs can be found in the Stephen Lawrence Inquiry, published in 1999, which recommended that the police formally log “racist incidents” that did not reach the threshold of being a criminal offence. Subsequently expanded to cover other types of incident, NCHIs were entrenched in policing practice through the College of Policing’s 2014 ‘Hate Crime Operational Guidance’.

As a result of a successful legal challenge in 2021, *R (on the application of Miller) v College of Policing*,¹ the previous Government exercised its statutory power to introduce a new Code of Practice for the recording of NCHIs in June 2023. Until this point NCHIs had no formal basis in legislation whatsoever.

The Code of Practice, issued pursuant section 60 of the Police, Crime, Sentencing and Courts Act 2022, defines Non-Crime Hate Incidents (NCHIs) as:

“an incident or alleged incident which involves or is alleged to involve an act by a person (‘the subject’) which is perceived by a person other than the subject to be motivated - wholly or partly - by hostility or prejudice towards persons with a particular characteristic.”²

This paper demonstrates that the protections which Parliament and the previous Government attempted to introduce through this Code of Practice have been largely ineffective. A recent Inspection by His Majesty’s Inspectorate for Constabulary and Fire and Rescue Services (HMICFRS) shows that police forces have been willing entirely to ignore – and in fact to act contrary to – the Code of Practice. Out of 120 case files examined by HMICFRS sixteen NCHIs and fourteen hate crimes had been incorrectly recorded by police forces – an error rate of 25%. Of the 120 cases that HMICFRS reviewed, police had incorrectly recorded seven incidents on school premises.

That police forces are failing to get it right is no surprise – their track record in this domain has been poor. In 2021, Merseyside Police were rightly criticised for producing a false and misleading advertising

1. *R (Miller) v College of Policing* [2021] EWCA Civ 1926, [link](#)
2. Home Office, Statutory guidance: Non-Crime Hate Incidents: Code of Practice on the Recording and Retention of Personal Data, 3 June 2023, [link](#)

campaign which contained the slogan “BEING OFFENSIVE IS AN OFFENCE” – revealing that the officers involved were entirely wrong in their understanding of the law. A senior officer in the force subsequently withdrew the campaign and attempted to shift the blame onto the “local policing team on the Wirral”.³



Merseyside Police's 2021 'Hate Crime' advertising campaign

Police forces continue to be highly opaque in their approach to NCHIs – producing little clarity over their policies or data relating to the recording of NCHIs. What data does exist shows that there is very wide variation in rates of reporting between police forces. Essex Police, records NCHIs at a rate of 21.5 NCHIs per 100 officers per annum in 2023 – a rate three times that of the Met, four times that of Greater Manchester and ten times that of West Yorkshire. The number of NCHIs recorded per 100 officers per annum is 7.2 in the Metropolitan Police, 5.72 in Greater Manchester Police and 2.4 in West Yorkshire Police. This compares to an estimated national rate in the 12 months to June 2024 of 8.9 NCHIs recorded per 100 officers.

The distraction of police officers from other, more important activities is of grave concern to great swathes of the public – particularly given NCHIs do not involve allegations of criminality. In many cases Police and Crime Commissioners have been insufficiently robust in ensuring that forces have been focused on the fight against crime. In doing so it appears that PCCs are demonstrating an undue regard for an expansive understanding of police chiefs' 'operational independence' – something the public will not thank them for.

On 22 November 2024 the Home Secretary, Yvette Cooper MP, stated in response to questions about NCHI's that the “policing priorities should

3. J. Sharman, Merseyside Police apologises after using advertising van to tell residents 'being offensive is an offence', *The Independent*, 22 February 2021, [link](#)

be neighbourhood policing... but also some of the most serious violence: violence against women and girls and knife crime – the most serious crimes that we face”.⁴

These priorities align with polling carried out earlier this year for Policy Exchange’s Portrait of Modern Britain project, which found that the public thought the police’s top priorities should be murder and violent crime (65%), rape and sexual assault (56%), burglary and robbery (27%) and terrorism (26%). Even ‘online hate crime’ (and not the lower threshold of NCHIs) was considered a priority for only 7% of respondents.⁵

Police chiefs and Ministers regularly rebuff accusations of ‘two-tier’ or ‘differential’ policing. And yet their failure to recognise that levels of inconsistency – both between forces levels of NCHI recording and when compared to other incidents, such as the failure to act when individuals chanted for ‘jihad’ at a political rally on the streets of London⁶ – fuel these accusations. When combined with the levels of police secrecy about NCHIs, it is a toxic mix.

The time has come to overhaul completely the regime of Non-Crime Hate Incidents. Such a step is in the interests of both the public and policing. Indeed, if police chiefs are to restore the public’s confidence in policing, it is essential.

4. Interview with Home Secretary, Yvette Cooper MP, Good Morning Britain, ITV, 22nd November 2024, [link](#)
5. Polling for Policy Exchange as part of the Portrait of Modern Britain project – “Which of the following should be the top three priorities for the police in the United Kingdom to focus on?”, 2,000 respondents, 3-5 February 2024, [link](#)
6. D. Spencer, S. Laws, N. Webb (2024), ‘Might is Right?: The ‘Right to Protest’ in a new era of disruption and confrontation’, Policy Exchange, [link](#)

2. What is the history of Non-Crime Hate Incidents and where did they originate?

“A man reported that other passengers on a bus had given him “funny looks” due to his ethnic appearance. The [police] call taker didn’t consider whether the matter was trivial, irrational or malicious, and may have unnecessarily recorded a NCHI.”⁷

NCHI recorded by police - as documented by His Majesty’s Inspectorate of Constabulary and Fire and Rescue Services

The Stephen Lawrence Inquiry

The origins of NCHIs stem from the 1999 Inquiry into the murder of Stephen Lawrence in 1993. The Inquiry, conducted by Sir William Macpherson of Cluny, called for an overhaul of how the police, local government and other agencies treated racist incidents.⁸ In particular, the Inquiry concluded that a “racist incident” should be defined as being: “any incident which is perceived to be racist by the victim or any other person”.⁹ In essence anyone – whether involved in an incident or not, whether a reasonable person or otherwise – would be able to determine that an incident, no matter how benign, was racist in nature.

The Inquiry went on to recommend:

“That the term “racist incident” must be understood to include crimes and non-crimes in policing terms. Both must be reported, recorded and investigated with equal commitment”.¹⁰

It is remarkable that the Inquiry concluded that, as unpleasant as racist acts are, incidents which are not criminal offences as defined by Parliament should be investigated by the police with equal vigour as those which are criminal offences. It raises fundamental questions as to both the purpose of the police and what their priorities should be – particularly in a world of potentially limitless demand and highly constrained resource.

8. Sir William Macpherson of Cluny (1999), The Stephen Lawrence Inquiry, Cm 4262-1, February 1999, [link](#)

9. Ibid.

10. Ibid.

7. His Majesty’s Inspectorate of Constabulary and Fire and Rescue Services, An inspection into activism and impartiality in policing, 10 September 2024, [link](#)

The Macpherson Inquiry also recommended:

“That Codes of Practice be established by the Home Office, in consultation with Police Services, local Government and relevant agencies, to create a comprehensive system of reporting and recording of all racist incidents and crimes.”¹¹

Macpherson’s recommendations relating to racist incidents and their recording were rapidly accepted and implemented by the police and Government.

The expansion of non-crime recording

Following a 2006 review by Sir Adrian Fulford, at the time a High Court judge and subsequently appointed as a Lord Justice of Appeal, a shared definition of hate crimes and Non-Crime Hate Incidents was adopted across the criminal justice system – including by the police and Crown Prosecution Service.¹² This expanded the recording of NCHIs, beyond purely racist incidents, to cover all those characteristics covered by ‘hate crime’ legislation in England and Wales: race, religion, disability, sexual orientation and gender identity.¹³

Key to the expansion of NCHIs by police forces was the creation in 2014 of the College of Policing’s ‘Hate Crime Operational Guidance’ for police forces.¹⁴ This document was primarily focused on allegations of criminal offences rather than NCHIs, although there is a section within the Guidance entitled “Responses to hate incidents” which concerns NCHIs specifically. In relation to incidents which are not crimes the 2014 Guidance states:

“Not every reported incident amounts to a crime. Where no recordable crime has been committed, the hate incident should be managed in a professional, consistent and proportionate manner. The police have limited powers in these circumstances, but should recognise that hate incidents can cause extreme distress to victims and communities and can be the precursor to more serious crimes.”¹⁵

Perhaps recognising that the Guidance was likely to cause grave concerns to many, the College of Policing made a pre-emptive defence of their policy, saying:

“The recording of, and response to, non-crime hate incidents does not have universal support in society. Some people use this as evidence to accuse the police of becoming ‘the thought police’, trying to control what citizens think or believe, rather than what they do. While the police reject this view, it is important that officers do not overreact to non-crime incidents.”¹⁶

The Guidance goes on to say, in relation to “hate incidents” that:

“Where any person, including police personnel, reports a hate incident which would not be the primary responsibility of another agency, it must be recorded regardless of whether or not they are the victim, and irrespective of whether

11. Ibid.

12. Home Affairs Select Committee, The Macpherson Report: Twenty-two years on, [link](#)

13. Sections 28-33 Crime and Disorder Act 1998, [link](#) and sections 145 & 146 Criminal Justice Act 2003, [link](#)

14. College of Policing, Hate Crime Operational Guidance (2014), [link](#)

15. Ibid.

16. Ibid.

there is any evidence to identify the hate element.”¹⁷

The use of the word “must”, as above, in the Guidance leaves no latitude for police discretion or indeed the balancing of rights exercise which would be necessary in considering the “subject’s” right to freedom of expression under Article 10(1) of the European Convention on Human Rights (the Convention).

It was this failure to properly consider the right to freedom of expression which the Court of Appeal considered in the case of *R (Miller) v College of Policing* in 2021.¹⁸ This case specifically concerned the recording of an NCHI against Henry Miller, a businessman and former police officer, who had spelled out in a series of social media posts his views regarding gender recognition – in the context of the Government’s 2018 consultation on reforms to the Gender Recognition Act 2004.¹⁹

As with other rights, the right to freedom of expression is a qualified right, in that it is subject to:

*“such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary”.*²⁰

To be lawful, an interference must pursue these legitimate aims, which must also be balanced against the rights of others. These legitimate aims should be achieved in a proportionate way.

In its judgment the Court of Appeal concluded: (1) that the 2014 Guidance did involve a “real and significant” level of interference in the right to freedom of expression under Article 10(1) of the European Convention on Human Rights, and (2) that the aims of the Guidance could have been achieved in a more proportionate and less intrusive way.

Following the Court of Appeal’s judgement, on 20 December 2021, it then took the College of Policing some seven months to produce interim guidance for police forces – published in July 2022.²¹

The 2023 Statutory Guidance

The previous Government subsequently invited Parliament to enact sections 60 and 61 Police, Crime, Sentencing and Courts Act 2022, which authorise the Home Secretary to “issue a code of practice about the processing by a relevant person of personal data relating to a hate incident.”²² The Home Secretary laid the ‘Non-Crime Hate Incidents: Code of Practice on the Recording and Retention of Personal Data’ before Parliament on 13 March 2023.²³ It was approved by the House of Commons on 25 April 2023 and the House of Lords on 3 May 2023. It came into force on 3 June 2023. It is this Code of Practice which remains in force.

17. Ibid.

18. *R (on the application of Miller) v College of Policing* [2021] EWCA Civ 1926, [link](#)

19. Ibid.

20. Article 10, Human Rights Act 1998, [link](#)

21. Protecting freedom of expression – updated guidance, 21 July 2022, [link](#)

22. Sections 60 & 61 Police, Crime, Sentencing and Courts (PCSC) Act 2022, [link](#)

23. Home Office, Statutory guidance: Non-Crime Hate Incidents: Code of Practice on the Recording and Retention of Personal Data, 3rd June 2023, [link](#)

3. When should alleged Non-Crime Hate Incidents be recorded by the police?

“A force received an online report that a ten-year-old child had made a racist insult on school premises to another child of the same age. The parent of the child who was insulted was happy for the school to deal with this matter internally.....the force shouldn’t have recorded this as a crime or an NCHI, as it was suitable for the school to investigate. The school subsequently investigated the matter and organised racism awareness sessions for pupils. The force had incorrectly recorded and finalised the matter as a racially aggravated public order crime and unnecessarily deployed uniformed officers to the home address of the complainant.”²⁴

NCHI recorded by police - as documented by His Majesty’s Inspectorate of Constabulary and Fire and Rescue Services

The Code of Practice, which came into force in June 2023, under section 60 of the Police, Crime, Sentencing and Courts Act 2022, defines Non-Crime Hate Incidents as:

“an incident or alleged incident which involves or is alleged to involve an act by a person (‘the subject’) which is perceived by a person other than the subject to be motivated – wholly or partly – by hostility or prejudice towards persons with a particular characteristic.”²⁵

Not all matters reported to the police should be recorded as an NCHI. Under the 2023 Code of Practice, various criteria are required to be met before an NCHI should be recorded:

- i. An “incident”: Even where a report is perceived by the reporting person to be motivated by hostility or prejudice, it should only be recorded as an NCHI where it meets the threshold as being an “incident” as defined under the National Standard for Incident Recording:

“a single distinct event or occurrence which disturbs an individual’s, group’s or

25. Home Office, Statutory guidance: Non-Crime Hate Incidents: Code of Practice on the Recording and Retention of Personal Data, 3 June 2023, [link](#)

24. His Majesty’s Inspectorate of Constabulary and Fire and Rescue Services, An inspection into activism and impartiality in policing, 10 September 2024, [link](#)

community’s quality of life or causes them concern”.²⁶

- ii. A “particular characteristic”: For the purposes of NCHI recording this is a characteristic which is protected under ‘hate crime’ legislation – specifically:
 - race or perceived race – including colour, nationality, ethnic or national origins;²⁷
 - religion or perceived religion – including those with a lack of religious belief;²⁸
 - sexual orientation or perceived sexual orientation;²⁹
 - disability or perceived disability;³⁰ or
 - transgender identity or perceived transgender identity – references to being transgender include references to being transsexual, or undergoing, proposing to undergo or having undergone a process or part of a process of gender reassignment.³¹

Other “protected characteristics” under the Equality Act 2010, such as pregnancy or maternity and marriage or civil partnership, are not included for the purposes of NCHI recording as they are not covered by ‘hate crime’ legislation.

The 2023 Code of Practice explicitly does not preclude a police force choosing to record an incident to which none of the above “particular characteristics” apply – indeed it explicitly states that forces may record incidents, “involving a different characteristic that is not covered by hate crime legislation”.³² This provides police forces and officers with huge discretion to record any incidents they may well feel are relevant. Several forces have, for example, chosen to include within their NCHI reporting those incidents relating to “Alternative subculture” – albeit often without defining what this phrase means.³³

Incidents beyond those covered by the “particular characteristics” listed above, would however not be covered by the 2023 Code of Practice and therefore constitute a potential loophole which could lead to police forces choosing to register NCHIs relating to a whole range of further potential matters. Individuals who become the subject of such complaints would have even less protection than those who are the subject of an NCHI concerning the one of the “particular characteristics” listed above as they would not be covered by the Code of Practice.

- iii. A “person other than the subject”: This may include the individual who has experienced the incident or may be any other person who has “first-hand knowledge of the incident”. In relation to online or published material, this could be, and often has been, someone who has read an article or post on social media.

The police have actively attempted to encourage ‘third-party’ recording by individuals and groups who are not directly involved with incidents –

26. National Policing Improvement Agency (2011), The National Standard for Incident Recording, [link](#)

27. As defined in section 28(4) of the Crime and Disorder Act 1998, [link](#)

28. As defined in section 28(5) of the Crime and Disorder Act 1998, [link](#)

29. As defined in section 29AB of the Public Order Act 1986, [link](#)

30. As defined in section 66(6)(d) of the Sentencing Act 2020, [link](#)

31. As defined in section 66(6)(e) of the Sentencing Act 2020, [link](#)

32. Home Office, Statutory guidance: Non-Crime Hate Incidents: Code of Practice on the Recording and Retention of Personal Data, 3 June 2023, [link](#)

33. See for example: Lancashire Police, Hate Crime, [link](#)

3. When should alleged Non-Crime Hate Incidents be recorded by the police?

indeed it would appear to be an individual not directly involved who reported the Allison Pearson matter to the police.³⁴ Essex Police list 39 organisations, groups and addresses where ‘hate crime’ can be reported – rather than incidents being directly reported to the police.³⁵

- iv. “Hostility” and “Prejudice”: “Hostility” is the threshold articulated within the Crime and Disorder Act 1998 and Sentencing Act 2020 under which ‘hate crime’ is considered unlawful. There is no legal definition of the word “hostility”, so it is to be understood as the ordinary meaning of the word. The Crown Prosecution Service, which the Code of Practice refer to and instructs police forces to have regard to in recording NCHIs, defines “hostility” as including: “ill-will, spite, contempt, prejudice, unfriendliness, antagonism, resentment and dislike”.³⁶ A threshold as low as “unfriendliness” might well be sufficient for an NCHI to be recorded.

Taken together with point (ii) above – where it is not necessarily essential for one of the “particular characteristics” to be met – an NCHI could be recorded by the police where someone has been perceived to have been “unfriendly” based upon a factor totally unrelated to a “particular characteristic”.

The use of language is important – and in the case of NCHIs highly misleading. The usage of the word ‘Hate’ within the term ‘Non-Crime Hate Incidents’ provides the impression that the matters that they are concerned with are solely of a most serious nature. Yet as shown above the true standard to be met for an NCHI to be recorded is as low as “unfriendliness” or “dislike”. This misleading conflation of NCHIs, where the standard to be met is so low, with ‘Hate’ leads to a distortion of priorities and an impression that ‘Hate’ is far more prevalent than is the case.³⁷

- v. “Non-trivial”: Where the police believe that the complaint is “irrational, trivial or malicious” the 2023 Code of Practice instructs them not to make an NCHI record.³⁸ Officers are asked to use their “common-sense” in recording incidents.

34. V. Dodd, Allison Pearson’s ‘racist’ tweet is at centre of Telegraph’s row with police, *The Guardian*, 15 November 2024, [link](#)

35. Essex Police, How to report hate crime, [link](#)

36. Crown Prosecution Service, Hate Crime, [link](#)

37. For further discussion of this aspect see: C. Wide (2021), Hostility Crime and the Law Commission, Policy Exchange, [link](#)

38. Home Office, Statutory guidance: Non-Crime Hate Incidents: Code of Practice on the Recording and Retention of Personal Data, 3 June 2023, [link](#)

4. What is the ‘Additional Threshold Test’ that needs to be met for the police to record personal data within an NCHI?

“The complainant had difficulty walking and an unknown person asked them why they weren’t using a wheelchair. The complainant thought this was related to their disability. Following an assessment in accordance with the NCHI APP [Non-Crime Hate Incident Approved Professional Practice], the [police] call taker perceived the matter as being trivial, irrational or malicious. This means that the force shouldn’t have recorded this matter. However, despite this assessment, the force incorrectly recorded this as a public order crime and unnecessarily deployed uniformed officers to investigate. The force finalised this matter as a crime with no suspect identified.”³⁹

NCHI recorded by police - as documented by His Majesty’s Inspectorate of Constabulary and Fire and Rescue Services

The Code of Practice identifies two types of NCHI – those which contain ‘personal data’ and those which do not.

In addition to meeting the definition of an NCHI outlined in the previous chapter, the Code of Practice outlines an “Additional Threshold Test” where the recording of an NCHI involves recording a “subject’s” personal data. “Personal data” is defined in the Code of Practice to mean:

“any information relating to an identified or identifiable natural person who is the subject of an NCHI report. An identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.”⁴⁰

According to the Code of Practice personal data may only be recorded, in addition to the criteria above for recording an NCHI, if:

1. there is also a real risk of significant harm to individuals or groups

40. Home Office, Statutory guidance: Non-Crime Hate Incidents: Code of Practice on the Recording and Retention of Personal Data, 3 June 2023, [link](#)

39. His Majesty’s Inspectorate of Constabulary and Fire and Rescue Services, An inspection into activism and impartiality in policing, 10 September 2024, [link](#)

4. What is the 'Additional Threshold Test' that needs to be met for the police to record personal data within an NCHI?

- with a particular characteristic(s), and/or
2. a real risk that a future criminal offence may be committed against individuals or groups with a particular characteristic(s).

5. Do the police follow the 2023 Code of Practice issued by the Home Office?

“A man reported that when he had tried to deposit a large amount of cash at a bank, staff, following anti-money laundering protocols that apply to all customers, questioned the origin of the money. The complainant took exception and became angry as he believed this was due to his ethnicity. Although the matter related to banking processes, the force initially recorded it as an NCHI. Following investigation, the officer dealing with the case concluded that it shouldn't have been recorded and that the force should close the matter. However, a crime reviewer later incorrectly reclassified it as a racially aggravated public order offence, committed by bank staff. Eventually, after a further review, the incident was declassified as a crime.”⁴¹

NCHI recorded by police - as documented by His Majesty's Inspectorate of Constabulary and Fire and Rescue Services

Based upon the 2023/4 *Inspection into activism and impartiality in policing* by His Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS), the answer is a resounding no; or at the very least compliance with the Code of Practice is highly inconsistent. The Inspection by HMICFRS, ordered by the then Home Secretary, Suella Braverman KC MP, demonstrates that at the very least compliance with the Code of Practice is highly inconsistent. In their inspection, the Inspectorate found a range of very serious issues.

- i. *Policies not updated following the new Code of Practice issued by the Home Office:* The HMICFRS found at the time of their inspection that the policies relating to NCHIs had not been updated in five of the twelve forces they had inspected since the new Code of Practice had been issued. If this rate was replicated across England and Wales this would suggest that as many as half of police forces had failed to update their policies relating to NCHI following the publication of the new Code of Practice.

41. His Majesty's Inspectorate of Constabulary and Fire and Rescue Services, *An inspection into activism and impartiality in policing*, 10 September 2024, [link](#)

The HMICFRS stated:

“Some forces had introduced, or were introducing, structured processes for recording NCHIs. Others had amended force policies but hadn’t fully implemented the changes. In three forces there had been no noticeable response, with one force simply circulating the College Learn online training material to officers and staff, with little, if any, monitoring of completion rates.”

- ii. A poor standard of training for officers and staff: The College of Policing provides online training to officers and staff in relation to NCHIs. While the training does reflect the 2023 Code of Practice and the Miller case, the HMICFRS found that many officers and staff who had completed the training described it as “difficult, confusing and not easy to understand”.⁴² It apparently failed to distinguish “the difference between a crime and an NCHI”⁴³ – which would be a serious failing indeed. Even Inspectors from the HMICFRS themselves, on completing the College of Policing’s online training, found the training “confusing”.⁴⁴

The College of Policing is responsible for providing a minimum standard of training for police forces, with forces themselves then responsible for the provision of additional material. The HMICFRS identified only two forces – Northumbria and Leicestershire – who had provided their officers with additional material. That these two forces are specifically mentioned by the HMICFRS implies that most other forces had failed to follow their lead.

- iii. *Incorrect recording of NCHIs*: HMICFRS found that police officers and staff were risk-averse because they believed that they would be subject to criticism if they made an error in not recording an NCHI or ‘hate crime’ it was subsequently determined they should have done. It is therefore perceived to be less risky for officers to record a matter as a crime or NCHI than not to create a record, for example, in relation to a complaint or incident being a “trivial matter”. Out of 120 case files that they had examined, the HMICFRS identified sixteen NCHIs and fourteen hate crimes which had been incorrectly recorded – an error rate of 25%. Of the 120 cases the HMICFRS reviewed, police had incorrectly recorded seven incidents on school premises as crimes or NCHIs.
- iv. *An inability to remove personal data from NCHI records*: The Code of Practice requires that in certain cases police forces should delete records of NCHIs or personal details contained within NCHI records. HMICFRS found that most forces experienced considerable challenges in deleting information from their systems.
- v. *Forces choosing not to follow the Code of Practice*: HMICFRS found that some of those they interviewed within policing believed that the protections were “unnecessary”.

42. Ibid.

43. Ibid.

44. Ibid.

HMICFRS also found and indeed accepted that forces may well choose to adopt an approach at odds with the Code of Practice, stating in their Inspection:

“We recognise that forces may adopt an approach for recording and retaining information in accordance with the existing legislation, which may differ from the Code. It is important that, if doing so, forces have regard to the Code and can explain their rationale for taking a different approach.”⁴⁵

This demonstrates the remarkable position taken by those in policing – that despite Parliament legislating for the Home Secretary to issue a Code of Practice, police chiefs have then chosen to disregard them. No doubt police chiefs would point to an expansive understanding of ‘operational independence’ to do so – despite this explanation it is a remarkable choice on their part.

⁴⁵. Ibid.

6. What are the policies of individual police forces relating to the recording of NCHIs and what data do they publish?

“Police logged a hate incident after a couple were asked to leave a pub upon being accused of having sex in the establishment’s toilets. The force said one of the couple was transgender and it was alleged that the actions taken by the pub were “hate-related.”⁴⁶

NCHI recorded by police - as reported by The Times

Most individual police forces in England and Wales do not publish their full policies and procedures in relation to the recording of NCHIs. Commonly, police forces limit the information they do provide to having a section of their website dedicated to ‘hate crime’, which provides the following statement, or one similar to it:

“In most crimes it is something the victim has in their possession or control that motivates the offender to commit the crime. With hate crime it is ‘who’ the victim is, or ‘what’ the victim appears to be that motivates the offender to commit the crime.

“A hate crime is defined as ‘Any criminal offence which is perceived by the victim or any other person, to be motivated by hostility or prejudice based on a person’s race or perceived race; religion or perceived religion; sexual orientation or perceived sexual orientation; disability or perceived disability and any crime motivated by hostility or prejudice against a person who is transgender or perceived to be transgender.’

“A hate incident is any incident which the victim, or anyone else, thinks is based on someone’s prejudice towards them because of their race, religion, sexual orientation, disability or because they are transgender.

“Evidence of the hate element is not a requirement. You do not need to personally perceive the incident to be hate related. It would be enough if another person,

46. J. Beal, Doctors and vicars accused of non-crime hate incidents, The Times, 15 November 2024, [link](#)

a witness or even a police officer thought that the incident was hate related.”⁴⁷

The definitions above do not however make explicitly clear that a “hate incident” includes incidents which are not a criminal offence. This conflation of the terms has the potential to provide a misleading impression that all matters encapsulated by the broader term “hate incident” may be subject to legal sanction.

The failure of most police forces to openly publish their policies and procedures for dealing with NCHIs means it is almost impossible to determine how closely they abide by the requirements of the 2023 Code of Practice. As reported by HMICFRS (and described in the previous chapter), where forces have published their policies they provide limited confidence that forces are complying with the Code of Practice. For example, Wiltshire Police’s “Force Policy and Procedure” on ‘hate crime’ was published in August 2021 – prior to the judgment being issued in the Miller case.⁴⁸ It was due for review in August 2023 – it is not clear what the results of any review were or whether that review has even taken place.⁴⁹

In addition to the failure to publish their detailed policies in relation to NCHIs, police forces are similarly opaque in relation to data concerning the number of NCHIs they record. There is no single national data source for the recording of NCHIs by police forces and not all police forces publish the number of NCHIs they record – however the results of recent Freedom of Information requests show that 13,200 NCHIs were recorded in the 12 months to June 2024.⁵⁰ It is not possible to determine what proportion of those NCHIs contain ‘personal data’ within them.

Several forces, or their Police and Crime Commissioners, do however publish some limited data on NCHIs. The data available demonstrates a huge variation in the number of NCHIs apparently recorded by forces. Notably, Essex Police – the subject of recent public controversy concerning their approach to speech-based ‘hate crime’ – appear to have recorded far more NCHIs – both in real terms and per officer – than a number of other, far larger, forces.

In 2023, Essex Police recorded 808 NCHIs.⁵¹ Meanwhile, West Yorkshire Police, a force with 38% more police officers than Essex, recorded only 146 NCHIs⁵² and Greater Manchester Police, with well over double the number of officers compared to Essex, recorded only 466.⁵³

The rate of NCHIs per 100 officers per annum in Essex is 21.47.⁵⁴ This compares to the Metropolitan Police which has a comparable rate of 7.69, Greater Manchester Police which has a comparable rate of 5.72, and West Yorkshire which has a comparable rate of 2.4. The estimated national rate in the 12 months to June 2024 is 8.9 NCHIs recorded per 100 officers. This suggests that officers in Essex Police are recording NCHIs at more than twice the rate of their colleagues nationally, three times the rate of those in London, four times the rate of those in Manchester and nearly ten times the rate of those in West Yorkshire.

It is perhaps notable that Greater Manchester Police has, over the last three years been led by Chief Constable Stephen Watson, whose reputation

47. See for example: Metropolitan Police, “What is hate crime?”, [link](#)

48. Wiltshire Police, Force Policy and Procedure: Hate Crime, August 2021, [link](#)

49. Ibid.

50. J. Beal, Doctors and vicars accused of non-crime hate incidents, The Times, 15 November 2024, [link](#)

51. Essex Police, Freedom of Information Request: Hate Crimes and Non-Crime Hate Incidents 2018 to 2024, Ref: PUB 1295, [link](#)

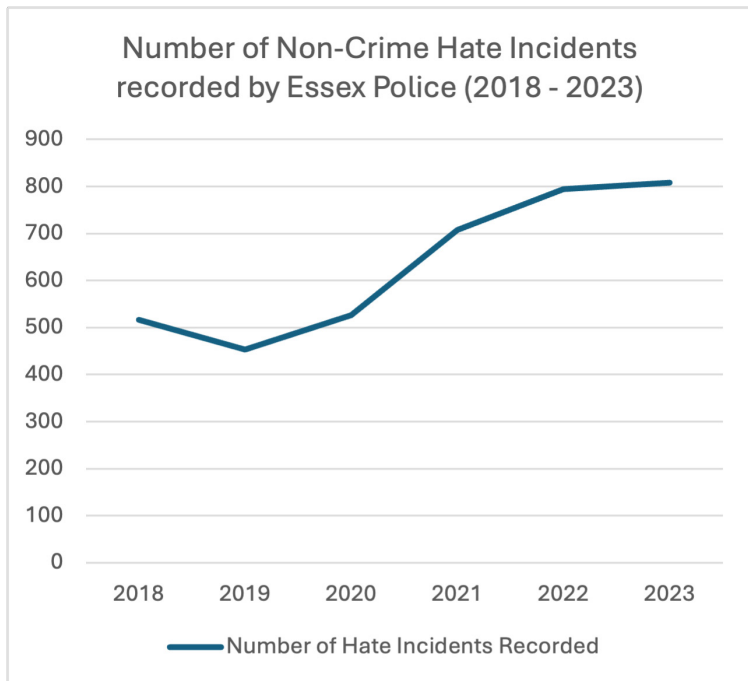
52. West Yorkshire Police, Freedom of Information Request: NCHI Recording, Reference: FOI 2036508/24, [link](#)

53. Greater Manchester Police, Hate crime performance data (2019 to 2024), [link](#)

54. The number of police officers for each force is based on: Home Office, Police workforce, England and Wales: 31 March 2024, [link](#)

6. What are the policies of individual police forces relating to the recording of NCHIs and what data do they publish?

is one of a focus on fighting crime rather than, “adulterating the uniform with pins and badges and having all manner of florid social media accounts – these are all things that I don’t think have a place in policing”.⁵⁵⁵⁶



While police officers in Essex are investigating one of the 808 NCHIs they recorded during 2023, it would not be surprising if the public they are meant to serve might ask what had been achieved in the same period in relation to one of the many actual criminal offences that officers recorded.

Table: 1 - The number of crimes recorded and solved by Essex Police (2023)⁵⁷

Crime Type	Number of Offences	Increase/ Decrease on 2022	Proportion of Offences Solved
Violence with Injury	14,650	-8.7%	16.3%
Rape	2,182	-14.0%	3.2%
Robbery	1,531	+ 4.6%	11.4%
Burglary	7,307	+9.0%	6.2%
Theft	27,310	+8.8%	12.1%

The distraction of police officers away from fighting crime in favour of recording and investigating NCHIs is not an insignificant distraction. Each report takes several hours to record, investigate and supervise – involving several police officers, police staff and supervisors. Given there are estimated to be 13,200 NCHIs completed per annum nationally, it is reasonable to conclude that over 60,000 police hours per annum are

55. C. Hymas, How an ‘anti-woke’ UK police chief turned around a failing force in just three years, The Telegraph, 11 June 2024, [link](#)

56. Essex Police, Freedom of Information Request: Hate Crimes and Non-Crime Hate Incidents 2018 to 2024, Ref: PUB 1295, [link](#)

57. Essex Police, Performance Summary To December 2023, 4 January 2024, [link](#)

being spent on NCHIs.⁵⁸

Central to the defence of recording NCHIs has been that it contributes to the police being able to build an intelligence picture and therefore intervene at an early stage to prevent ‘escalation’ of situations into serious criminality. Presumably the same argument could be made to justify police actions to intervene in any aspect of human existence. There is currently limited, if any, evidence to demonstrate that the large-scale recording of NCHIs has enabled police officers to prevent the ‘escalation’ of situations into serious criminality.

It may also be that police chiefs seek to defend their decisions to prioritise speech-based ‘hate crime’ and NCHIs by virtue of certain offences having been created by Parliament they therefore have no choice but to pursue them. This is a specious argument. Firstly, in relation to NCHIs – they have explicitly not been created as criminal offences by Parliament. Secondly, police chiefs frequently intone the importance of their ‘operational independence’ from Government and their Police and Crime Commissioners.⁵⁹ The decision to expand NCHIs is one which has been by police chiefs – and for which they, frequently with the willing acquiesce of their Police and Crime Commissioners, are thus responsible.

58. Based on each NCHI taking five hours to record, investigate and supervise and the estimated 13,200 NCHIs recorded annually – based on: J. Beal, Doctors and vicars accused of non-crime hate incidents, *The Times*, 15 November 2024, [link](#)

59. See for example the Commissioner of the Metropolitan Police: London Assembly Police and Crime Committee – Wednesday 5 July 2023. Transcript of Agenda Item 7 – Question and Answer Session with the Mayor’s Office for Policing and Crime and the Metropolitan Police Service, [link](#)

7. What is the potential impact of NCHIs upon individuals?

“[A Non-Crime Hate Incident] was logged when a complainant said they felt their bank was being difficult with them due to their ‘skin colour and height’.”⁶⁰

An NCHI recorded by the police - as reported by The Times

Disclosure and Barring Service Checks

The Disclosure and Barring Service is a non-departmental body, sponsored by the Home Office. They provide employers with background information concerning potential employees and volunteers to ensure that recruitment and selection decisions are suitable to the post being applied for – in particular those in relation to vulnerable people such as children.

The types of checks available are:⁶¹

- a basic check, which shows unspent convictions and conditional cautions;
- a standard check, which shows spent and unspent convictions and adult cautions, from the Police National Computer which have not been ‘filtered’ in line with legislation;
- an enhanced check, which shows the same as a standard check plus any information held by local police that is considered relevant to the role;
- an enhanced check with a check of the barred lists, which shows the same as an enhanced check plus whether the applicant is on the adults’ barred list, children’s barred list or both.

For enhanced checks the “information held by local police” includes the information held within NCHIs. As such, when police forces complete DBS disclosures to potential employers the contents of NCHIs may be disclosed.

This is set down in legislation in section 113B of the Police Act 1997 which states:

“An enhanced criminal record certificate is a certificate which (a) gives the

61. Disclosure and Barring Service, DBS checks: detailed guidance, 20 September 2024, [link](#)

60. J. Beal, Essex police recorded 1,500 non-crime hate incidents in two years, The Times, 18 November 2024, [link](#)

prescribed details of every relevant matter relating to the applicant which is recorded in central records and any information provided in accordance with subsection (4)".⁶²

Subsection (4) provides the chief police officer with the discretion to disclose any information that they believe ought to be included in the DBS certificate.

A combination of the innovation of NCHIs by police forces and the legislative provisions concerning DBS checks have therefore created a wholly unacceptable situation. Individuals may well be subjected to a DBS result which contains an NCHI – which may well lead to significant negative consequences for their future employment despite, for example, them having merely expressed what are entirely lawful views.

Freedom of expression

Freedom of expression is currently protected under the Human Rights Act 1998, which gave effect in UK law to Article 10 of the European Convention on Human Rights. Any interference with this right by the state is qualified. The right may only be subject to such restrictions as:

*“are prescribed by law and are necessary in a democratic society”, amongst other things, “in the interests of national security . . . , or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the . . . rights . . . of others”.*⁶³

As outlined by the 2023 Code of Practice:

“recording authorities must note that the majority of speech that expresses political or other opinions, even if offensive or controversial, does not constitute an offence.”

The right of individuals to express their opinions – including opinions that may be, or may be considered by some to be, offensive, trivial, satirical or unsophisticated – is protected by law. The Code of Practice seeks to ensure, through the ‘Additional Threshold Test’ that police forces do not have an unreasonably “chilling effect” on freedom of speech by ensuring that only those NCHIs where there is a significant risk of harm or of a criminal offence being committed are recorded. However, the recent inspection by HMICFRS makes clear that this threshold is clearly not being met in the recording of all NCHIs.

The importance of freedom of expression has also been recognised in case law across a range of topics – including cases concerning discussion or debate on topics related to certain protected characteristics. For example, in the employment law context in the case of *Forstater v CGD Europe* (2021) the Employment Appeal Tribunal held that Maya Forstater’s view - that biological sex is immutable and not to be conflated with gender identity - was indeed a belief accorded protection under the Equality Act 2010.⁶⁴ The same was true in *R (Miller) v College of Policing* (2021), as outlined earlier in this paper.

There is little doubt that the recording of NCHIs, risks providing a

62. Section 113B Police Act 1997, [link](#)

63. Schedule 1, Human Rights Act 1998, [link](#)

64. *Forstater v CGD Europe*, Employment Appeal Tribunal, June 2021, [link](#)

chilling effect on freedom of speech – with the grave effects this has in a liberal democratic society. In the context of NCHIs this chilling effect is inevitable where individuals believe there is a risk that by expressing entirely lawful opinions they may risk sanction – particularly when that sanction lies outside the principles of open justice which would be applied in the case of a criminal trial.

While the Home Office Code of Practice has attempted to mitigate the risks posed by police forces' approach to NCHIs, by limiting the circumstances in which NCHIs (particularly those containing “personal data”) are recorded, it is clear they have been almost entirely unsuccessful. As demonstrated by the recent HMICFRS inspection police forces have demonstrated a callous disregard for freedom of speech. This is an area where police forces have demonstrated that they simply cannot be trusted.

8. Conclusion and Policy Recommendations

In August 2024 it was reported that the Home Secretary, Yvette Cooper MP, was intending to reverse the 2023 Code of Practice introduced by the previous Government.⁶⁵ A Home Office spokesman said at the time that:

“It is vital that the police can capture data relating to non-crime hate incidents when it is proportionate and necessary to do so in order to help prevent serious crimes which may later occur. We are carefully considering how best to protect individuals and communities from hate whilst also balancing the need to protect the fundamental right to free speech.”⁶⁶

However, following the recent Allison Pearson-Essex Police affair, where the journalist was visited by police due to an investigation into a year-old social media post, the Prime Minister’s Spokesman confirmed that the Home Office was reviewing the guidance provided to police forces. Specifically, the Downing Street Spokesman stated that the Government was seeking to balance “the fundamental right to free speech” and to ensure that police could deal with the issues “that matter most” to the public; he also stated that it was necessary for the police to record NCHIs where “proportionate and necessary”.⁶⁷

On 19 November 2024 Lord Hanson of Flint, Minister of State in the Home Office, stated in the House of Lords that:

“The Home Secretary has today announced potential reforms to the monitoring of police performance and what they need to monitor. If the noble Lord looks at what the Home Secretary said, he will see that there will be an ongoing process of monitoring police performance, and as part of that, the recording of non-crime hate incidents will undoubtedly be a key issue.”⁶⁸

In response to questions from the Shadow Home Secretary, Chris Philp MP, on 20 November 2020 the Policing Minister, Dame Diana Johnson MP, stated:

“I take the approach that this should be about common sense and consistency. His Majesty’s Inspectorate of Constabulary and Fire and Rescue services talked about the need for consistency and training. Many of the questions that he asks will form part of the consultative approach that we will adopt when our White Paper is laid before Parliament.”⁶⁹

If, as the statements by the Policing Minister and Minister of State for the Home Office suggest, the Government’s intended review into NCHIs

65. M. Dathan, Hate crime measures back on agenda despite fears for free speech, The Times, 28 August 2024, [link](#)

66. Ibid.

67. J. Beal, Nine-year-old among thousands investigated for hate ‘incidents’, The Times, 14 November 2024, [link](#)

68. HL Deb (19 November 2024) vol 841 col 112, [link](#)

69. HC Deb (20 November 2024) vol 757 col 266, [link](#)

is to be conducted as part of a wider review into police performance or to be delayed by their inclusion in a broader White Paper this would be an error. While a review into police performance is welcome, combining an NCHI review into the police performance review inevitably means that any review into NCHIs will take far longer than is necessary – with their negative impact similarly continuing longer than is tolerable.

The Government should deliver their planned review into NCHIs at the earliest possible opportunity. The status quo on NCHIs can continue no longer.

Policy Recommendations

- i. The Government should legislate to abolish, in its entirety, the recording of Non-Crime Hate Incidents by the police. Should the Government choose to retain the NCHI regime, they should issue an updated Code of Practice which leads to a substantial reduction in the number of NCHIs record – increasing ‘freedom of expression’ protections and reducing the distraction of police officers from their core mission of fighting crime. This should include no longer record any NCHIs which do not contain personal data.
- ii. The definitions used to meet the threshold for recording of NCHIs should be raised to genuinely meet the standard of ‘Hate’, rather than the current low standard which includes “unfriendliness” and “dislike”. The current standard for “hostility” grossly distorts the perception of the prevalence of genuine ‘Hate’ incidents.
- iii. The Home Office should collate and publish on an annual basis the number of NCHIs recorded per force (splitting out the number of NCHIs containing personal data and the number which do not contain personal data). This data should be published for the previous decade and in future years.
- iv. Should the Government choose not to abolish the NCHI regime, they should pass legislation to mandate police forces to follow the provisions of the NCHI Code of Practice.
- v. His Majesty’s Inspectorate of Constabulary and Fire and Rescue Services should include compliance with the provisions of the NCHI Code of into NCHIs within their annual PEEL force inspection regime.
- vi. All police forces should be required to publish their full policies and procedures in relation to the recording of NCHIs – including making clear on their websites (and other public information systems) the difference between hate crimes and NCHIs.
- vii. The National Audit Office should examine the costs in their totality of the NCHI regime to provide a clear understanding of its impact on policing, national government and local government resources.
- viii. The Government should conduct and publish a rapid, stand-alone, review identifying how often the recording of NCHIs is:

- (a) genuinely leading to the prevention of crime and harm, given that this is the principal justification for the recording of NCHIs and
 - (b) the level of distraction from the core mission of policing to prevent and detect crime.
- ix. The Government should review the current Policing Protocol relating to 'Operational Independence'. The current expansive understanding adopted by many chief constables leads to police forces failing to properly take account of the views of both Police and Crime Commissioners and the Home Secretary – who are accountable to the public and Parliament for crime and policing. It must be made clear that the limits of 'Operational Independence' concern directly operational matters.

Appendix: Timeline of the Allison Pearson-Essex Police affair

16 November 2023	Allison Pearson publishes the post under investigation on X (formerly Twitter). ⁷⁰
18 November 2023	A complaint was made to the Metropolitan Police that Allison Pearson’s post on X was “a possible hate crime” – the investigation was subsequently transferred to Sussex Police and then to Essex Police. ⁷¹
28 August 2024	The Times reports that the Home Secretary, the Rt Hon Yvette Cooper MP “will require police to record more non-criminal hate incidents in a reversal of changes made by the Conservatives to protect free speech.” ⁷²
10 November 2024	Allison Pearson was visited by the police who informed her that she was under investigation for a social media post. They asked her to attend a voluntary interview at the police station. ⁷³
12 November 2024	Allison Pearson reveals in The Telegraph the visit by police on Remembrance Sunday stating that the tweet was being investigated as a “non-crime hate incident.” ⁷⁴ The Telegraph reported that Essex Police denied Allison Pearson’s claim that the matter was being dealt with as an NCHI, instead saying that “an investigation is now being carried out under section 17 of the Public Order Act.” ⁷⁵
13 November 2024	Essex Police published a statement on their website referred to an incident, stating that “a woman” is accused of “inciting racial hatred,” a criminal offence under section 17 of the Public Order Act 1986, not of committing a NCHI. They also stated that they had complained to the Independent Press Standards Organisation (IPSO) over what they described as “false reporting” regarding the ongoing investigation. ⁷⁶

70. K. Armstrong, Police defend investigation into journalist’s social media post, BBC News, 15 November 2024, [link](#)

71. Ibid.

72. M. Dathan, Hate crime measures back on agenda despite fears for free speech, The Times, 28 August 2024, [link](#)

73. K. Armstrong, Police defend investigation into journalist’s social media post, BBC News, 15 November 2024, [link](#)

74. A. Pearson, My visit from police on Remembrance Sunday is living proof of our two-tier justice system, The Telegraph, 12 November 2024, [link](#)

75. C. Hymas, Telegraph journalist faces ‘Kafkaesque’ investigation over alleged hate crime, The Telegraph, 12 November 2024, [link](#)

76. Essex Police, Update relating to ongoing investigation, November 2021, [link](#)

<p>14 November 2024</p>	<p>No.10 stated that the Home Office would review how police record NCHIs to ensure that they are “proportionate” and protect free speech.⁷⁷</p> <p>Allison Pearson stated on X that Essex Police called her report of the incident “unethical.”⁷⁸</p>
<p>15 November 2024</p>	<p>The Telegraph reported that “Essex Police had set up a ‘gold group’ usually reserved for dealing with major crimes to handle the investigation” into Allison Pearson’s tweet.⁷⁹</p> <p>The Leader of HM Official Opposition, the Rt Hon Kemi Badenoch MP state that, “we shouldn’t have journalists getting visited by the police for expressing opinions. That’s absolutely wrong, we need to look at the laws around non-crime hate incidents.”⁸⁰</p>
<p>16 November 2024</p>	<p>Essex Police published the information passed on to the Independent Press Standards Organisation (IPSO), stating that there is “no public interest in falsehood.” The information consisted of verbatim lines spoken by officers during the incident including reference to an “offence of potentially inciting racial hatred online.”⁸¹</p>
<p>17 November 2024</p>	<p>The Prime Minister, the Rt Hon Sir Keir Starmer KC MP, stated that “as a general principle the police should concentrate on what matters most to their communities.”⁸²</p> <p>The Shadow Home Secretary, the Rt Hon Chris Philp MP told the BBC that “the police should not be policing free speech” or “thought.”⁸³</p> <p>The Essex Police, Fire and Crime Commissioner, Roger Hirst, stated in a radio interview that “we were not the thought police” and that “we can’t go around ignoring crimes just because they’re politically sensitive.”⁸⁴</p>
<p>18 November 2024</p>	<p>The Essex Police Crime Commissioner, Roger Hirst, wrote in ConservativeHome that whilst the “law on Non-Crime Hate Incidents...infringes too far on the core principle of freedom of speech” the “alleged offence has been assessed as passing the threshold for criminal investigation” and Essex Police should not be blamed.⁸⁵</p>

77. C. Hymas, Telegraph journalist faces ‘Kafkaesque’ investigation over alleged hate crime, The Telegraph, 12 November 2024, [link](#)

78. A. Pearson, X, 14 November 2024, [link](#)

79. C. Stringer, M. Ludlow & W. Bolton, ‘Incompetent’ Essex Police set up terror-style incident group for single Allison Pearson tweet, The Telegraph, 15 November 2024, [link](#)

80. G. Rayner & C. Hymas, Review hate laws to protect free speech, says Kemi Badenoch, The Telegraph, 15 November 2024, [link](#)

81. Essex Police, Update relating to ongoing investigation, November 2021, [link](#)

82. O. Wright & J. Beal, Allison Pearson tweet row: Focus on fighting crime, PM tells police, The Times, 17 November 2024, [link](#)

83. C. Hymas, Police get hate laws wrong 90pc of the time, says shadow home secretary, The Telegraph, 17 November 2024, [link](#)

84. H. Moore, ‘We were not the Thought Police’: Essex Police commissioner defends investigation into Telegraph journalist, LBC, 17 November 2024, [link](#)

85. R. Hirst Don’t blame Essex Police for upholding the law – even if the alleged perpetrator is a powerful journalist, ConservativeHome, 18 November 2024, [link](#)

<p>19 November 2024</p>	<p>Stephen Parkinson, the Director of Public Prosecutions, told The Times Crime and Justice Commission, when referring to NCHIs, that “I had to look up what on earth the term meant — I was puzzled by it.”⁸⁶</p> <p>The Home Secretary stated that the police should use “common sense” when recording NCHIs.⁸⁷ She also, at the National Police Chiefs’ Council and Association of Police and Crime Commissioners conference, announced plans for police reforms including a “new Police Performance Unit to track national data on local performance and drive up standards.”⁸⁸</p> <p>Lord Hanson of Flint, Minister of State in the Home Office, stated in the House of Lords that “there will be an ongoing process of monitoring police performance, and as part of that, the recording of non-crime hate incidents will undoubtedly be a key issue.”⁸⁹</p>
<p>20 November 2024</p>	<p>The Shadow Home Secretary, the Rt Hon Chris Philp MP spoke at the National Police Chiefs’ Council and Association of Police and Crime Commissioners conference, calling for a change in the NCHI guidance, saying that the police should only investigate NCHIs when there’s a “real risk of imminent criminality” and to “concentrate on investigating and preventing crime.”⁹⁰</p> <p>The Policing Minister, the Rt Hon Dame Diana Johnson DBE MP, when asked by the Shadow Home Secretary in the House of Commons if she would make changes to the guidelines on NCHIs, said “that this should be about common sense and consistency.”⁹¹ She announced that a White Paper on police reform will be published in the spring.⁹²</p>
<p>21 November 2024</p>	<p>The Telegraph reported that Essex Police, having consulted with the Crown Prosecution Service, had closed their investigation into Allison Pearson – concluding that no further action should be taken.⁹³</p>

86. J. Ames & B. Ellery, Top prosecutor: I had no idea what non-crime hate incidents were, The Times, 19 November 2024, [link](#)

87. C. Hymas, Police should use ‘common sense’ when recording non-crime hate incidents, says Yvette Cooper, The Telegraph, 19 November 2024, [link](#)

88. Home Office, Home Secretary announces major policing reforms, 19th November 2024, [link](#)

89. HL Deb (19 November 2024) vol 841 col 112, [link](#)

90. C. Geiger, Police must not investigate free speech, Tories say, BBC News, 20 November 2024, [link](#)

91. HC Deb (20 November 2024) vol 757 col 266, [link](#)

92. Ibid.

93. C. Stringer & C. Hymas, Police drop investigation into Allison Pearson over tweet, The Telegraph, 21 November 2024, [link](#)



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