



Freedom of Information Act Publication Scheme	
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Title	Exceptional Case Requests - Consideration for the Removal of DNA, Fingerprints and PNC Records
Version	Version .5
Summary	To provide an overview for this procedure
Branch / OCU	Specialist Crime Directorate / SCD12
Date created	08/06/2011
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About The Procedure

The Criminal Justice and Police Act 2001 amended the Police and Criminal Evidence Act 1984, providing the police in England and Wales with the power to retain Deoxyribonucleic Acid (DNA) samples and fingerprint records relating to individuals following acquittal at court or any other discontinuance of a case.

The Criminal Justice Act 2003 amended the Police and Criminal Evidence Act 1984, providing the police in England and Wales with the additional power to take DNA samples and fingerprint records from all persons detained at a police station having been arrested for a recordable offence.

Both sets of legislation are permissive and, therefore, allow Chief Officers the opportunity, in exceptional circumstances, to exercise discretion and accede to requests from individuals for their DNA samples and fingerprint records to be destroyed, together with the deletion of the supporting entry on the Police National Computer (PNC).

In December 2008 the European Court of Human Rights (Grand Chamber Judgement), found against the UK in that there has been a violation of Article 8 in respect of the retention of DNA samples and fingerprint records from persons suspected but not convicted.

In line with the Supreme Court decision of 18th May 2011 in the cases of C and GC v The Commissioner, and based on legal advice, the MPS will continue to process exceptional case requests in accordance with the ACPO policy of 16th March 2006. We will do so until Parliament introduces a new legislative scheme.

The Procedure

All requests for the consideration of deletion of DNA samples, fingerprint and PNC records received by the MPS will be referred to the Exceptional Cases Unit for processing in accordance with National Policy.

Although exceptional cases will be extremely rare the circumstances will be considered and a Commander from the Specialist Crime Directorate (SCD) will make the final decision on behalf of the Commissioner.

They might include cases where the original arrest was found to be unlawful or inordinate. Additionally, where it is established beyond doubt that no offence existed, that might, having regard to all the circumstances, be viewed as an exceptional case.

When a request is made, in the first instance, an individual will normally be sent a letter asking them to provide copies of two different official documents which between them provide sufficient information to prove their full name, date of birth and current home address (this must be the same address as the given contact address) and should also show their signature. This is to avoid any possible breach of the Data Protection Act 1998.

The individual will be informed that the samples / records are lawfully held and that their request for deletion is refused, unless the individual believes their application should be regarded as exceptional.

The individual will be invited to state the grounds upon which they believe their case to be exceptional. They must also supply in their own words, the full circumstances and reasons that led to their arrest, as this will allow the SCD Commander to review their case in detail.

A PNC check will be made to confirm the entry relevant to the request for consideration for deletion. This will ensure that the DNA samples and fingerprint records are matched to the appropriate Arrest / Summons Number on the PNC record.

Samples / records taken on other occasions relating to different offences will not be considered unless the individual has requested this and provides separate circumstances and contention for it.

Roles and Responsibilities

The Exceptional Cases Unit will process any request after proof of identity has been confirmed to their satisfaction, by preparing a report for the SCD Commander for consideration. This report will consist of information supplied by the individual and the officer in charge of the case (or in some circumstances, the Criminal Justice Unit Manager). The Association of Chief Police Officers (ACPO) designated Criminal Records Office (ACRO) will be contacted for their advice and recommendation.

If the decision to delete has been made, the Exceptional Cases Unit will contact the respective departments and agencies to ensure that the DNA samples, fingerprint and PNC records are deleted / destroyed accordingly. The Exceptional Cases Unit will send a response to the individual notifying them of the decision of the SCD Commander on behalf of the Commissioner.

If the decision is made to retain the DNA samples, fingerprint and PNC records, the Exceptional Cases Unit will send a response to the individual notifying them of the decision of the SCD Commander on behalf of the Commissioner.

Once an individual has been notified of a decision to refuse their request, there is no further recourse available within the MPS. The individual does, however, have the option of seeking a Judicial Review.

There is no statutory time limit for the Exceptional Cases Unit to process requests.

Administration

All records / correspondence relating to a request will be retained within the Metropolitan Request for Information and Correspondence (MetRIC) system.

Quality Assurance

The Exceptional Cases Unit - Senior Information Manager, will monitor this procedure.

Review

This procedure will be reviewed annually or if any change in National Policy occur.

Contact Details

All requests are to be sent to the following address:

Exceptional Cases Unit
1106
Yard
London
0BG

Room
New Scotland
10 Broadway
SW1H
United Kingdom

Telephone: 020 7230 - 2003 / 4019 / 1380

Further Information

Association of Chief Police Officers

www.acpo.police.uk

www.acpo.police.uk/documents/PoliceCertificates/SubjectAccess/Retention%20of%20Records06.pdf

Home Office

www.homeoffice.gov.uk

Judicial Review Information:

www.judiciary.gov.uk/you-and-the-judiciary/judicial-review

www.hmcourts-service.gov.uk/cms/1220.htm