



## **ACPO National Vetting Working Group**

### **Use of Fingerprints and DNA Samples in PCSO Recruitment Vetting Procedures**

#### **Purpose**

The purpose of this paper is to seek endorsement of a proposal that prior to appointment all prospective Police Community Support Officers (PCSOs) provide samples for a speculative search of the National Automated Fingerprint Identification System (NAFIS) and the National DNA Database (NDNAD).

This will only be for those who have completed all other stages of the recruitment process and whom are recommended for appointment. The purposes of such checks would be:

- for the prevention and detection of crime by seeking to ensure an efficient police force and ensure the integrity of each individual force is not compromised
- to ascertain whether the individual has previously had their fingerprints or a sample of their DNA taken by the police and that they are not wanted or suspected of crime
- to identify if the individual is linked, by fingerprints or DNA, to any outstanding crime scenes.
- to establish whether previously taken fingerprints or samples were provided using the same identity as the one, under which, they are pursuing their application
- to fulfil the requirement under ACPO National Vetting Policy for the Police Community to ensure applicants do not have Cautions and Convictions as detailed in the Policy.

#### **Background**

The formulation of the Metropolitan Police in 1829 adhered to principles which can be described as follows; *the primary objects of an efficient police is the prevention of crime: the next that of detection and punishment of offenders if crime is committed. To these ends all the efforts of police must be directed.*

It is essential for the prevention and detection of crime to have an efficient police force. PCSOs have a unique law enforcement role which is evolving and developing as they become more important and visible in the prevention and detection of crime. They increasingly used as witnesses of truth in

criminal prosecutions and frequently deal with the most vulnerable and criminal members of society. They now perform many roles and duties previously carried out by police officers in the past.

The role of PCSOs has taken on a greater spectre following the recent terrorist attacks. There is an increased threat of infiltration of police services by subversives, radical groups and criminals. Examples of past cases to support this cannot be disclosed, due to grounds of national security.

Police forces face a constant challenge of ensuring integrity and the prevention of corruption; the nature of such corruption has become increasingly sophisticated.

The current practise of just retaining fingerprints on the elimination database means that a PCSO will not be detected as a potential offender, even if an individual's fingerprints were on databases of convicted criminals or of those sought by police.

DNA samples are likely to give police important information about an applicant over and above that yielded by fingerprints. This must be in the public interest and proportionate.

ACPO National Vetting Policy for the Police Community provides guidance on the application of a cautions and convictions criteria for PCSOs and other police staff. There is a requirement for candidates to declare the convictions or cautions.

There is evidence that some conceal the fact they have criminal convictions, or are the subject of intelligence that would otherwise make them ineligible for employment. Inevitably some individuals also fail to declare they are wanted or have committed serious unsolved crime.

In recent years the issue of 'Taint' has arisen. Under the Criminal Procedures and Investigations Act 1996 (CPIA) certain information must be revealed to the prosecution. There have been cases where subsequent revelation of criminality has resulted in convictions being ruled 'unsafe'. The impact of employing such an individual cannot be underestimated, particularly in serious cases where case disposal resulted in imprisonment.

The police service has the ability to identify persons responsible for crime through comparison of fingerprints and DNA to outstanding marks from crime scenes. This capability is not used to ensure that persons who have committed crime and who have not yet been identified, are prevented from joining the police service. This leaves the Chief Officer in an invidious position in possibly employing an individual who is wanted for an high profile offence. The public expectation must clearly be that these checks are carried out.

The issue of ascertaining the true identity of an applicant to the police service has been identified as one of the higher level vulnerabilities facing the police service. Experience has shown that the risk of forgery means that traditional

identity documents no longer offer the unquestionable reliability that they once did.

Additionally, it is plausible that, in addition to individuals making applications under false identities, there will be active criminals involved in organised crime who make applications under their true identity safe in the knowledge that their criminal conviction history is under a false identity. Such a breach would undermine the policing of each individual force and have a significant impact on the ability of that force to prevent and detect crime.

It is possible that such applications and attempts at infiltration may not be detected under existing procedures identified within HOC 23/2005. This guidance infers that a PNC check against details included on the application form and confirmed via production of a passport, or similar identification, is sufficient to confirm an applicants' identity.

### **Current Regulations Guidance and Policy**

**HOC 23/2005** provides guidance to police forces on fingerprints and the use of the PEDb. The guidance refers to a Police Advisory Board for England and Wales (PABEW) agreement that the fingerprints of Police Officers and others whose fingerprints are to be held on the PEDb would be taken and stored in accordance with an agreed protocol. The protocol states that:

- fingerprints are taken for elimination purposes only and provides instruction on storage, use and destruction of fingerprints on the PEDb
- fingerprints of police recruits and Special Constables should be taken on appointment (that is, no later than the time of attestation) and should not be used to check for criminal record on the PNC
- the criminal records and criminal associations of applicants and their families are checked via the PNC against personal details included on the application form and confirmed via production of a passport (or similar) identification. Applicants should not therefore be fingerprinted in order to carry out a criminal convictions check.

**HOC 23/2005** acknowledges that PCSOs, Forensic Support Staff and other police staff are likely to come into contact with scenes of crime and may leave marks unwittingly which may need to be eliminated. Whilst there is no legal requirement to provide fingerprints, it is suggested that forces could/should include a requirement to provide fingerprints in the employment contracts of PCSOs.

If the proposal included within this paper is accepted, it would clearly be in the public interest for Home Office Guidance to be suitably strengthened to make the requirement to provide fingerprints/DNA samples at the time and for the purposes described explicit.

## **Legal Advice**

The relevant extract from Section 64 (1) A (b) of PACE provides that the *'fingerprints.....or samples may be retained after they have fulfilled the purposes for which they were taken but shall not be used by any person except for purposes related to the prevention or detection of crime, the investigation of an offence, the conduct of a prosecution'*

The MPS' legal advice is that the proposed checking of DNA and fingerprints against LiveScan and the National DNA Database is *'for a purpose related to the prevention or detection of crime'*. Fundamentally, this is because it is essential for the prevention and detection of crime to have an efficient police force.

Legal opinion has been obtained by the MPS, to the effect that it would be lawful for every potential police officer and every potential employee to be asked to give his/her explicit consent to the checking of their fingerprints using LiveScan (and hard copies being retained for elimination purposes if they are appointed as police officers, PCSO's or others working at the scenes of crimes) and to DNA samples being taken to be checked against the National DNA Database.

Again, even this position is insufficiently clear since, in both instances, it refers to fingerprints/DNA samples being given 'by consent' rather than as a requirement and precursor of appointment.

## **Costs**

The cost of taking fingerprints and searching via Livescan is opportunity cost alone. Each DNA submission has a unit cost of £63.30. A medium size police force with 400 PCSOs will recruit only a percentage of such staff in a year. It is too early to identify trends in the turnover rate of PCSOs at this time. However, if the rate were 25% the additional cost would be £6330 annually, falling to £2532 for a rate of 10% turnover.

## **Conclusion**

It is the duty of the police service to protect the public and prevent and detect crime. The risk to police forces of employing PCSOs without a speculative search of both the NAFIS and NDNAD is high and compromises that obligation.

Whilst current vetting arrangements can identify many of the legitimate reasons for the rejection of an applicant, serious vulnerabilities remain through an inability to ensure that the reasons for refusal of clearance have been examined.

The collateral cost to the Police Service of employing a PCSO with undisclosed convictions or who is linked to a crime scene by DNA or fingerprints cannot be underestimated. Retaining the integrity of the service

and maintaining public confidence are dependent upon every proportionate avenue being explored and it very strongly believed that this is an entirely proportionate, absolutely necessary, and publicly expected approach.

### **Recommendation**

That:

- All prospective PCSOs, selected for appointment, are required to have their fingerprints and DNA taken for the purposes of aiding identification and to allow a speculative search to be carried out on NAFIS and NDNAD.
- Once a search of NAFIS and NDNAD has been completed, the fingerprints and DNA of the PCSOs appointed will be removed from NAFIS and NDNAD and placed on the elimination databases only. The placing of fingerprints and DNA on the elimination databases will be by agreement of the individual PCSOs.
- Upon leaving the employment of the force, the PCSO's fingerprints and DNA will be removed from the elimination databases and destroyed; the PCSO may witness this process if wished.
- Existing PCSOs, already in employment at the date of this agreement, will not be subject to any retrospective speculative search of NAFIS or NDNAD.
- This agreement will be reviewed 12 months after implementation,

This recommendation has the support of the ACPO Workforce Development Business Area, chaired by Chief Constable Bob Quick of Surrey Police.

There is no proposal to change the provision of HOC 23/2005, which identifies when the Fingerprints and DNA of PCSOs, once appointed, can be accessed.

It is not recommended in this proposal that a retrospective search be carried out on existing PCSOs.

**Prepared by the ACPO National Vetting Working Group on behalf of Chief Constable Paul West, West Mercia Constabulary, Chair of ACPO's Professional Standards Committee.**