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Recording, Weeding and Retention of Information on Criminal History System (CHS)

Guidance

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Version Control Table

Version	History of Amendments	Approval Date
1.00	Initial Approved Version	23/11/2011
1.03	Amended with Clarification of Children's Hearing Disposals	01/03/2012
2.00	Publication as Police Scotland Document after Police and Fire Reform (Scotland) Act 2013	03/06/2013
3.00	Insertion of text on images management and removal of text anticipating S.187 & 188 of Children's Hearing (Scotland) act 2012. Change to corporate template	21/09/2016
4.00	Amendments to 5.1 and 5.3 covering changes to weeding policy in regards to Children's Hearings and Prostitute Warning.	01/08/2018

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1. Introduction / Purpose

- 1.1. This Police Service of Scotland (hereinafter referred to as Police Scotland) Guidance document supports the;
- Records Management Policy
 - Information Security Policy
 - Data Protection Policy
 - Record Retention SOP
- 1.2 Cases created on Criminal History System (CHS) will be recorded as “pending” until resulted by a decision from the Police, Crown Office and Procurator Fiscal Service (COPFS), Scottish Childrens’ Reporter Administration (SCRA) or the Scottish Courts and Tribunals Service (SCTS). The resulting of such a case is termed a disposal.
- 1.3 Disposals which are convictions, other findings of guilt in court or non-convictions (alternatives to prosecution) result in the case being deemed “antecedent”. For clarity these include Warnings, Absolute Discharge, Admonishments and Grounds accepted or established at Children’s Hearings on Offence Grounds.
- 1.4 Where cases have a disposal which does not result in an “antecedent” i.e. non finding of guilt, (such as, No Proceedings, No Further Proceedings, Grounds Not Established) these are marked as “temporary retention”.
- 1.5 With the exception of warnings to prostitutes each antecedent will be weeded on its individual merits based on the appropriate retention rule i.e. any previous or subsequent “antecedent” will not be affected by the retention rule applicable to another “antecedent”.

2. The 40/20 Rule

- 2.1 The 40/20 rule means that the subject to whom the data applies has to be 40 years old (or over) and the information been on record for at least 20 years (i.e. both conditions must be met) before the CHS will perform an automated weed on the antecedent data.
- 2.2 Cases recorded and subsequently disposed as an antecedent on CHS will generally be retained under the 40/20 rule unless criteria are met for application of another rule.

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3. The 70/30 Rule

- 3.1 The 70/30 rule means that the subject to whom the conviction applies has to be 70 years old (or over) and the information been on record for at least 30 years (i.e. both conditions must be met) before the CHS will perform an automated weed on the antecedent data.
- 3.2 In instances of higher level offending, the general 40/20 rule will be replaced by the 70/30 rule where any of the following apply:
- Conviction on indictment – Solemn Procedure;
 - The antecedent is a ruling under Mental Health Acts; or
 - Conviction is custodial (imprisonment).

4. 100 Years / Life of Subject

- 4.1 Convictions will be retained until 100th Birthday where:
- Penalty of Life Imprisonment is imposed;
 - Subject is detained during Her Majesty's Pleasure;
 - Subject is detained without limit of time; or
 - The antecedent is a sexual or sexually aggravated offence.

5. Other Offending and Non-conviction disposals

- 5.1 The following disposals weed at 2 years from the date of insertion:
- Recorded Police Warnings, Police and Senior Police Officer's Warnings;
 - Warnings to prostitutes;
 - Grounds Accepted and Grounds Established findings at Childrens' Hearings for Non Sexual or Non Serious Violent Offending;
 - Police Fixed Penalty Notices;
 - Fiscal Warnings;
 - Fiscal Disposals (Fines, compensation orders, combined orders and work orders) for non-sexual or non-serious violent offences*; and

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5.2 The following disposals weed at 3 years from the date of insertion:

- Fiscal Disposals (Fines, compensation orders, combined orders and work orders) for sexual and serious violent offences*; and
- Non findings of guilt, cases Not Called at court, cases Deserted and Fiscal decisions of No Further Proceedings for sexual and serious violent offences*.

*Denotes - Offences prescribed by legislation in Criminal Justice and Licensing (Scotland) Act 2010 Sections 77 to 82 which amends sections 18 and 19 of the Criminal Justice and Licensing Act 1995 (as amended 2007).

5.3 Childrens Hearings where Grounds Accepted and Grounds Established for Sexual and Serious Violent Offending** will be recorded as described for convictions in Sections 2 to 4. These will be reviewed at 3 years and then annually thereafter.

*Denotes - Offences prescribed by legislation in Criminal Justice and Licensing (Scotland) Act 2010 Sections 77 to 82 which amends sections 18 and 19 of the Criminal Justice and Licensing Act 1995 (as amended 2007).

**Denotes – Offences covered in The Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial Order 2015 schedule 8A and 8B.

6. Bail

6.1 Historical records of bail granted and bail conditions are retained for 6 Months from end of bail order.

7. Temporary Retentions

7.1 Data regarding cases dealt with by a disposal resulting in a temporary retention is weeded after 6 months unless it is data generated in 5.2.

8. Cases Not Progressed

8.1 Cases which are recorded but not dealt with within 3 years are deleted. This deletion is subject to rigorous reporting and checking schedules to ensure cases are properly managed rather than automatically deleted in error.

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9. Images

- 9.1 Images will be retained where the photograph is part of an on-going pending case and/or where the photograph is of the same date or newer than the oldest case which resulted in a conviction or Absolute Discharge.

List of Associated Reference Documents

Policies

- Records Management Policy
- Information Security Policy
- Data Protection Policy

Standard Operating Procedures

- Record Retention SOP