



**Armed Forces Personnel
Standard Operating Procedure**

Notice:

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This SOP provides clear direction and procedural instruction to provide a consistency of response in accordance with force policy, however it is recognised that policing is a dynamic profession and the standard response may not be appropriate in every circumstance. In every situation, your decisions and actions should be supported by the National Decision Model and based on the values and ethics of Police Scotland. You may be expected to provide a clear and reasonable rationale for any decision or action which you take.

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Version	History of Amendments	Approval Date
1.00	Initial Approved Version	25/03/13
2.00	<p>Amendment of appendices titles to show Divisional letters rather than legacy Force name.</p> <p>Inclusion to section 1.2 of the second bullet point outlining the process for dealing with military personnel coming to the attention of the police other than in criminal circumstances</p> <p>The addition of the whole of section 2.8 is dedicated to the Wellbeing Concerns Relating to serving Military Personnel and the new process associated with dealing with it. Officers are now required to make Service Overview aware of the circumstances and whether the military personnel should be left with family / friends. Service Overview will notify Services Police Bureau, updating the incident. Officers dealing with the incident will record the details on SID under Operation Pellegrino and forwarded to National Intelligence Bureau.</p> <p>The addition of Appendix J provides users with a flowchart outlining action to be taken by officers dealing.</p>	10/12/2013
2.01	Update to paragraph 2.8 to take into account the new VPD system As a result the processes within Appendices 'J' to 'L' have also undergone minor amendment.	01/04/2014
3.00	SOP amended in line with Criminal Justice (Scotland) Act 2016, clarity added procedurally at section 2 and 6. New section at 8 and 9 signposting new Volunteer Reserve Forces SOP and how CJ Act and Armed Forces Act interlink.	22/01/2018
4.00	Rider box added during SOP Review.	17/01/2019

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1. Purpose

- 1.1 The Police Service of Scotland, hereafter referred to as Police Scotland, regularly requires to liaise and act in partnership with Her Majesty's Armed Forces (HM Forces) for various reasons. The majority of these relate to specific events and to major incident and emergency contingency planning, which are covered by separate Standard Operating Procedures.
- 1.2 This Standard Operating Procedure (SOP) covers two distinct areas;
- The procedures to be followed when individual members of HM Forces are detected for the commission of crimes or offences.
 - Other miscellaneous aspects of liaison with HM Forces and guidance on miscellaneous aspects of interaction with HM Forces.
- 1.3 The procedures described in this document are founded on the provisions of:
- The Police and Fire Reform (Scotland) Act 2012;
 - The Armed Forces Act 2006;
 - Armed Forces (Evidence of Illegal Absence and Transfer to Service Custody) Regulations 2009;
 - The Armed Forces (Forfeitures and Deductions) Regulations 2009;
 - Scottish Government Circular 4/2007
 - The Reserve Forces Act 1996
 - Criminal Justice (Scotland) Act 2016

2. Procedures

2.1 Criminal offences committed by HM forces personnel

- 2.1.1 Section 42 of the Armed Forces Act 2006 (AFA 2006) provides that subject to certain exemptions, every person who, whilst subject to military, air force or naval law, commits a criminal offence is deemed to be guilty of an offence against military, air force or naval law and may be tried before a court martial.
- 2.1.2 Apart from these excepted crimes, civilian courts and courts martial have concurrent jurisdiction to deal with any crimes or offences against the criminal law committed by members of HM Forces.
- 2.1.3 The decision as to whether a serviceman or servicewoman who is alleged to have committed a crime or offence will be tried by a civilian court or dealt with

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by the service authorities is a matter for determination by the civilian authorities.

- 2.1.4 When a member of HM Forces is arrested by Police Scotland in relation to a criminal offence, the Custody Supervisor should contact the Service Police Crime Bureau (SPCB) on **(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)** to confirm the accused's details and ascertain the military details required to complete the SPR2 (guidance provided in Sections 2.7-2.8). The general particulars of the case should be provided for the information of the accused's Commanding Officer. If appropriate, the opportunity should also be taken to ascertain any available information on the character of the accused, for inclusion in the SPR2.
- 2.1.5 In all cases where a member of HM Forces is charged with a crime or offence, the Procurator Fiscal will arrange for a communication to be sent to the relevant Commanding Officer informing him or her of the nature of the charge and the diet at which the accused is due to appear before the court.
- 2.1.6 Offences which occur on Military Bases will normally be dealt with by the Ministry of Defence (MOD) Police. Depending on the circumstances, Police Scotland may be requested to assist. The MOD Police guard Military Equipment and bases such as the Clyde Naval Base, the Royal Military Police (RMP) and their other service equivalents within the RAF and Navy investigate crimes committed by members of their respective service.
- 2.1.7 If Police Scotland officers require to conduct a search of an area within a military premises i.e. within a barrack then permission can be obtained from the RMP. Authority can be granted by an RMP Officer with the rank of Captain or above. Alternatively a warrant can be obtained via COPFS. The Regimental Adjutant in charge of the military premises should be notified and will facilitate access.
- 2.1.8 Investigations into Military aircraft accidents will be conducted by the Military Air Accident Investigation Branch (MilAAIB).
- 2.1.9 If Police Officers have cause to deal with an on duty member of HM Forces in public and suspect them of committing an offence (e.g. driving whilst under the influence of drink or drugs), the individual's Commanding Officer should be contacted via SPCB.

2.2 Deserters and Absentees from HM Forces

- 2.2.1 When a member of HM Forces deserts or is absent without leave (AWOL), the SPCB will create a relevant entry on PNC and report the matter to the headquarters of the Police Force within whose area the absentee is thought to reside.

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- 2.2.2 If the absentee is subsequently arrested by Police Scotland under any of the circumstances outlined below, a PNC notification should be sent to the creator to notify them that they must arrange cancellation of the original PNC entry. It is the responsibility of the creator to delete the original request.
- 2.2.3 Any member of the Reserve Forces who fails to comply with their call-out notice should be brought before a Sheriff Summary Court.

2.3 Arrest by Police under Warrant of Person Who is AWOL/Deserter

- 2.3.1 Part 3 of the Armed Forces (Evidence of Illegal Absence and Transfer to Service Custody) Regulations 2009, Section 4(3) states:

“Where they are available, a certified copy of any custody records raised and maintained for the relevant person whilst he was under arrest or after he had surrendered, shall be provided with the certificate issued under this regulation”

- 2.3.2 When a person is arrested by Police Scotland under a warrant for arrest issued by a judge advocate (Military Judge) they will be transferred to service custody as soon as practicable. The Custody Supervisor must contact SPCB on **(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)** to arrange this. A Certificate of Release containing specific information along with a verified copy of any custody records raised and maintained for the person while they are under arrest will be handed over to service custody personnel.
- 2.3.3 Section 320 AFA 2006 gives Police Scotland powers to use reasonable force to effect the arrest.
- 2.3.4 For guidance in relation to powers of entry please refer to the Forced Entry and Insecure Premises SOP.

2.4 Arrest by Police without Warrant of a Person Who Is AWOL / Deserter

- 2.4.1 An officer of a UK or British overseas territory police may arrest without warrant any person who is reasonably suspected of being a person subject to service law who has deserted or is AWOL. When a person is arrested in such circumstances, they must be brought before a court of summary jurisdiction in the territory they were arrested.
- 2.4.2 The offence is contrary to military law and is non-criminal. When a member of HM Forces is arrested without warrant by Police Scotland as AWOL / deserter, the Custody Supervisor should contact SPCB on **(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)** to notify them. At this time the necessary military details for the SPR2 as per Sections 2.7-2.8 should be ascertained.

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2.4.3 Section 320 AFA 2006 gives Police Scotland powers to use reasonable force to effect the arrest.

2.4.4 For guidance in relation to powers of entry please refer to the Forced Entry and Insecure Premises SOP.

2.5 Surrender to Police

2.5.1 When a member of HM Forces who is AWOL / deserter surrenders to Police Scotland, they must be taken to a Police Scotland Custody Suite. The Custody Supervisor will contact SPCB and a decision will be made as to whether to:

- Arrange for them to be transferred to service custody;
- Arrange for them to be brought before a court of summary jurisdiction;
- Release them subject to condition that they report to such place or person as may be specified for the purpose of enabling him to be taken into service custody or transferred directly into service custody.

2.5.2 If an agreement is made that the subject will appear before a court of summary jurisdiction, the necessary military details for the SPR2 as per Sections 2.7-2.8 should be ascertained.

2.6 Transfer to Service Custody

2.6.1 Where police transfer an absentee or deserter to service custody, a Certificate of Transfer to Service Custody containing specified information, along with a certified copy of any custody records raised and maintained while the person was under arrest must be handed over to the person receiving the absentee into service custody at the same time.

2.6.2 If a military escort is arranged, they must be provided with details of warning signals, risk management plan and medical care plan to ensure that the custody's wellbeing is continued throughout their period in custody.

2.6.3 The attendance of a police officer at a court martial to prove the fact of arrest or surrender is not usually necessary. Police officers/members of police staff shall not attend a court martial unless authorised by their local Area Commander / Head of Department. Where the case concerns a deserter, enquiry should be made with the service concerned, to ascertain if a Certificate of Arrest was issued or not, in order to confirm the requirement for the police officer / member of police staff to attend.

2.7 Standard Prosecution Report

2.7.1 To facilitate the reporting of members of HM Forces, who have been illegally absent, to the Procurator Fiscal, the following charge code should be used:

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0AWL000000000000 - On (date) and (date) at (locus), you (accused name) being a person subject to service law were absent without leave from (full details of parent unit and address) in that you did desert.

- 2.7.2 The following details should be included within relevant sections of the Standard Prosecution Report:

Bail Section

Assessment – Y

The accused has been certified in pursuance of Part 2 of The Armed Services Act (Evidence of illegal Absence and Transfer to Custody) Regulations 2009 and The Armed Forces (Forfeitures and Deductions) Regulations 2009 as absent from his/her unit, has no leave to be absent from the unit and has remained absent since DATE.

Antecedents

Accused is appearing from custody at XXXXX Sheriff Court having been arrested in terms of Section 314 of The Armed Forces Act 2006. Accused is a serving member of the Royal Navy/Royal Air Force/Army, rank XXXX, service number XXXXX. Accused unit address is XXXXXXXXX.

Reason for custody

The accused has been certified in pursuance of Part 2 of The Armed Services Act (Evidence of illegal Absence and Transfer to Custody) Regulations 2009 and The Armed Forces (Forfeitures and Deductions) Regulations 2009 as absent from his/her unit, has no leave to be absent from the unit and has remained absent since DATE. A Certificate of Absence has been forwarded to (insert Police area) by XXXXXXXX. Accused is appearing from custody at XXXXX Sheriff Court having arrested in terms of Section 314 of the Armed Forces Act 2006.

- 2.7.3 A PNC print out showing the AWOL/deserter status of the relevant person should also be forwarded to the PF or attached electronically. If that is not available, a copy certificate of their status would be required from the SPCB.
- 2.7.4 When the AWOL/deserter status of the member of Armed Forces Personnel has come to notice due to criminal activity that justifies custody proceedings, a custody SPR2 should be submitted as normal and their status outlined within the body of the report, along with additional information referred to above. Where the criminal conduct would not normally be treated as custody, that matter should be reported by the usual means and the member of Armed Forces Personnel simply treated as AWOL/deserted as above. In either scenario, the SPCB should be notified of the decision made.

2.8 Intranet Crime Recording System (ICRS)

- 2.8.1 Currently, ICRS is unsuitable for reporting a member of HM Forces who is AWOL / deserter and as such, a hard copy subject report needs to be

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created, outlining the full details of the relevant person including (where known):

- His/her unit, service rank or rate and service;
- Details of whether arrested or surrendered;
- Date, time and place of arrest / surrender;
- Where arrested on warrant, the warrant details;
- If, at the time of coming into contact with the police, they were dressed in uniform of any of HM Forces; and
- Whether in possession of forces identification.

2.8.2 Officers should utilise the charge code provided at 2.7.1 within the subject report.

2.8.3 Custody/case management staff have experienced occasional reluctance on the part of PF and courts to accept such relevant persons. In these circumstances, the PF Depute involved should be directed to liaise with the Senior PF Depute within the Policy Unit at Crown Office, Telephone number **(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)**.

3. Conveyance of HM Forces Personnel

3.1 Any member of HM Forces who is taken into custody while in uniform should not be marched through the streets and must be conveyed in a closed police vehicle.

4. Service Personnel under Military Escort

4.1 At the discretion of the Police Scotland custody supervisor, military escort personnel may utilise a police cell for a military prisoner for one night. This is extended as a courtesy and the responsibility for feeding and guarding the prisoner remains with the military. In all such cases, details will be recorded in the notes section of the local prisoner processing system.

5. Visiting Military Forces

5.1 All cases being reported against members of visiting military forces and civilian ancillaries must be reported to the Sheriff Court. The senior officer of the visiting military force must also be advised of any court proceedings and a report on the circumstances is to be submitted immediately to the Assistant

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Chief Constable (Operational Support) via the Local Policing Commander, Operational Support.

- 5.2 The police are not to take steps to arrest a suspected deserter without reference to the Scottish Government Justice Department, if the suspected deserter is alleged to have gone absent elsewhere than in the United Kingdom or is claiming political asylum.
- 5.3 When an absentee or deserter from a visiting military force is delivered to an escort, a short report is to be made available to the service official outlining the circumstances of how the individual came into custody.

6. Information Sharing Between the Police and HM Forces

- 6.1 Any intelligence being requested of or provided to the military must be sent via email to the National Intelligence Bureau (NIB) at **(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)**. Officers must not contact the SPCB directly in order to request/share intelligence.
- 6.2 The NIB will in turn notify the SPCB who will update the Royal Military Police Crime Support Cell. This unit has the ability to gather and disseminate information and intelligence concerning all branches of HM Forces and to assist the police with inquiries relating to HM Forces personnel.

7. Protection of Members of HM Forces

- 7.1 A small number of HM Forces personnel may be under threat of attack by terrorist groups. Should any Police Scotland employee receive information that such a person may be the subject of threats from a terrorist or other source, this information should be passed immediately to the control room Inspector who will arrange for SPCB to be advised of the circumstances so that the appropriate action can be taken.
- 7.2 An appropriate entry should also be made in the Scottish Intelligence Database (SID).

8. Police Scotland Members of the Volunteer Reserve Forces

- 8.1 Further information for police officers and police staff who are also Military Reservists should refer to the Volunteer Reserve Forces SOP.

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9 Application of the Criminal Justice (Scotland) Act 2016 to Service Offence Arrests

- 9.1 Section 58 of the CJSA 2016 specifically dis-applies Part 1 of CJSA 2016 from applying to arrests under Sections 313-318 of the AFA 2006. The impact of this is that any person arrested AWOL or desertion (whether under warrant or otherwise) must be arrested under the AFA 2006. They **must not** be offered access to a solicitor upon their arrest.
- 9.2 In addition the introduction of the CJSA 2016 will modify some provisions of the AFA altering the rights of those arrested under various sections of the AFA.
- 9.3 A guidance document Application of the Criminal Justice (Scotland) Act 2016 to Arrests of Service Personnel has been created for custody staff to refer to if required.

10. Welfare Concerns Regarding Serving and Former Military Personnel

10.1 Wellbeing Concerns Relating To Serving Military Personnel

- 10.1 In circumstances where an officer from Police Scotland comes into any contact with a person whom they identify as being a serving member of the military and has concerns regarding their wellbeing, the following process (outlined in Appendix D) should be complied with.
- 10.2 Officers should, first and foremost, deal with the incident at hand and reach an appropriate conclusion in respect of the individual who is displaying cause for concern.
- 10.3 At the earliest opportunity thereafter officers should notify their respective Area Control Room who will then notify the relevant Local Overview (East, North or West).
- 10.4 The relevant Duty Officer, will in turn contact SPCB via telephone number 02392 28 5170 providing a brief summary of the circumstances indicating why wellbeing concerns have been raised. Thereafter they will provide feedback to the relevant Area Control Room confirming that the Service Police Bureau has been notified and the incident will be updated on the appropriate Command and Control System.
- 10.5 Officers dealing with the initial incident must complete a Concern Report on the Vulnerable Persons Database completing all mandatory fields. The officer must state that the individual is a serving member of the military and justify

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their reason for referral in the synopsis. The Concern Report must then be submitted via the usual channels.

- 10.6 Once approved the supervisor must send the report to the Public Protection Unit Concern Management Hub for review.
- 10.7 The Concern Management Hub reviews concern report and sends PDF document to dedicated email address; scdcintelligenceSPOA@scotland.pnn.police.uk for referral to Project Edda.
- 10.8 Officers dealing with the initial incident will create an intelligence log on the Scottish Intelligence Database (SID) using the organisation heading PSW OPERATION PELLEGRINO. This log should record the full circumstances of the incident together with a detailed description of the wellbeing concerns.
- 10.9 Divisional Local Intelligence Officers will then ensure that all intelligence logs recorded under the organisation heading PSW OPERATION PELLEGRINO are messaged to the National Intelligence Bureau.
- 10.10 The National Intelligence Bureau will then disclose to the appropriate information to SPCB.
- 10.11 Should officers have concerns about the individual having views or associations that are deemed extreme or which appear to support groups associated with extremism, then officers should inform the Scottish Prevent Delivery Unit (preventdeliveryunit@scotland.pnn.police.uk) **and** submit a REFRACT marked SID log containing as much detail as possible, in particular the military unit the individual was previously serving with. Further information on the Prevent Strategy can be accessed via the Police Scotland Intranet.

10.2 Wellbeing Concerns Relating To Former Military Personnel

- 10.2.1 In circumstances where an officer from Police Scotland comes into any contact with a person whom they identify as being a former member of the military and has concerns regarding their wellbeing, as indicated above, the following process should be complied with (Appendix 'E').
- 10.2.2 Officers should, first and foremost, deal with the incident at hand and reach an appropriate conclusion in respect of the individual who is displaying cause for concern and update appropriate Command and Control System.
- 10.2.3 During engagement with the individual, officers will seek the consent for a referral to be made, having first provided an explanation as to what the referral process involves. Officers may however refer individuals who are displaying behaviour which gives rise to concerns regarding their wellbeing in the absence of consent. This is when the officer is satisfied that the information sharing is necessary in the interests of the individual's welfare and/or the public interest and after due consideration has been given to the individual's wishes and their right to confidentiality.

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- 10.2.4 The reasons for referring any individual in the absence of consent must be recorded by officers in their police issue notebook/PDA.
- 10.2.5 The officer must complete a Concern Report on the Vulnerable Persons Database completing all mandatory fields. Officer must state that the individual is a former member of the military and explain their reason for referral in synopsis. As per national VPD process, the concern report will be forwarded to PPU via supervisors.
- 10.2.6 The Concern Management Hub will review the Concern Report and email a PDF version to the following to dedicated email addresses;
- nicole.pirie@citizensad.cjsm.net for referral to support group and
sdcintelligenceSPOA@scotland.pnn.police.uk
- for referral to Project Edda. If the Concern Hub require advice prior to submitting the Concern Report, the contact telephone number for the Armed Services Advice Project is 0845 231 0300. A trained advisor will be available to provide advice from 0900 – 1700 hours Monday to Friday.
- 10.3 Wellbeing Concerns Relating To Former and Serving Personnel in Custody**
- 10.3.1 When a former or serving member of the military is taken into police custody they will be cared for in line with the Care and Welfare of Persons in Police Custody Standard Operating Procedure.
- 10.3.2 Every individual processed through Police Scotland custody suites will be asked a series of Prisoner Vulnerability Assessment questions which includes:
- ‘Do you currently serve, or have you ever served, in the Armed Forces?’
- As a result a bespoke care plan will be created by custody staff in order to meet the individual’s needs.
- 10.3.3 Where an arrested person discloses past or current military status, the custody staff must ensure that it is recorded within their prisoner records.
- 10.3.4 The custody supervisor will ensure that the enquiry officer submits the appropriate referral. This too, will be recorded within the prisoner processing record.
- 10.3.5 There may be instances where an individual does not disclose their military status at the time of processing within a custody suite. Subsequently, they may make a disclosure to custody staff. Should this occur, the custody supervisor will ensure that contact is made with the enquiry officer who will be responsible for submitting the appropriate referral. The individual’s prisoner record will be updated accordingly (Appendix ‘F’).
- 10.3.6 The referral is an additional service to assist military personnel and will not replace the duty of care that custody staff have to keep people safe.

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10.3.7 If, during the vulnerability assessment, it is deemed that an individual is suffering from a physical or mental illness, custody staff will ensure that they receive timeous and appropriate medical assessment whilst within custody.

10.3.8 Custody staff will ensure that the appropriate guidance and information literature is placed with the individual's property prior to release and record it within their prisoner record.

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List of Associated Legislation

- The Police and Fire Reform (Scotland) Act 2012;
- The Armed Forces Act 2006;
- Armed Forces (Evidence of Illegal Absence and Transfer to Service Custody) Regulations 2009;
- The Armed Forces (Forfeitures and Deductions) Regulations 2009;
- The Reserve Forces Act 1996; and
- Criminal Justice (Scotland) Act 2016

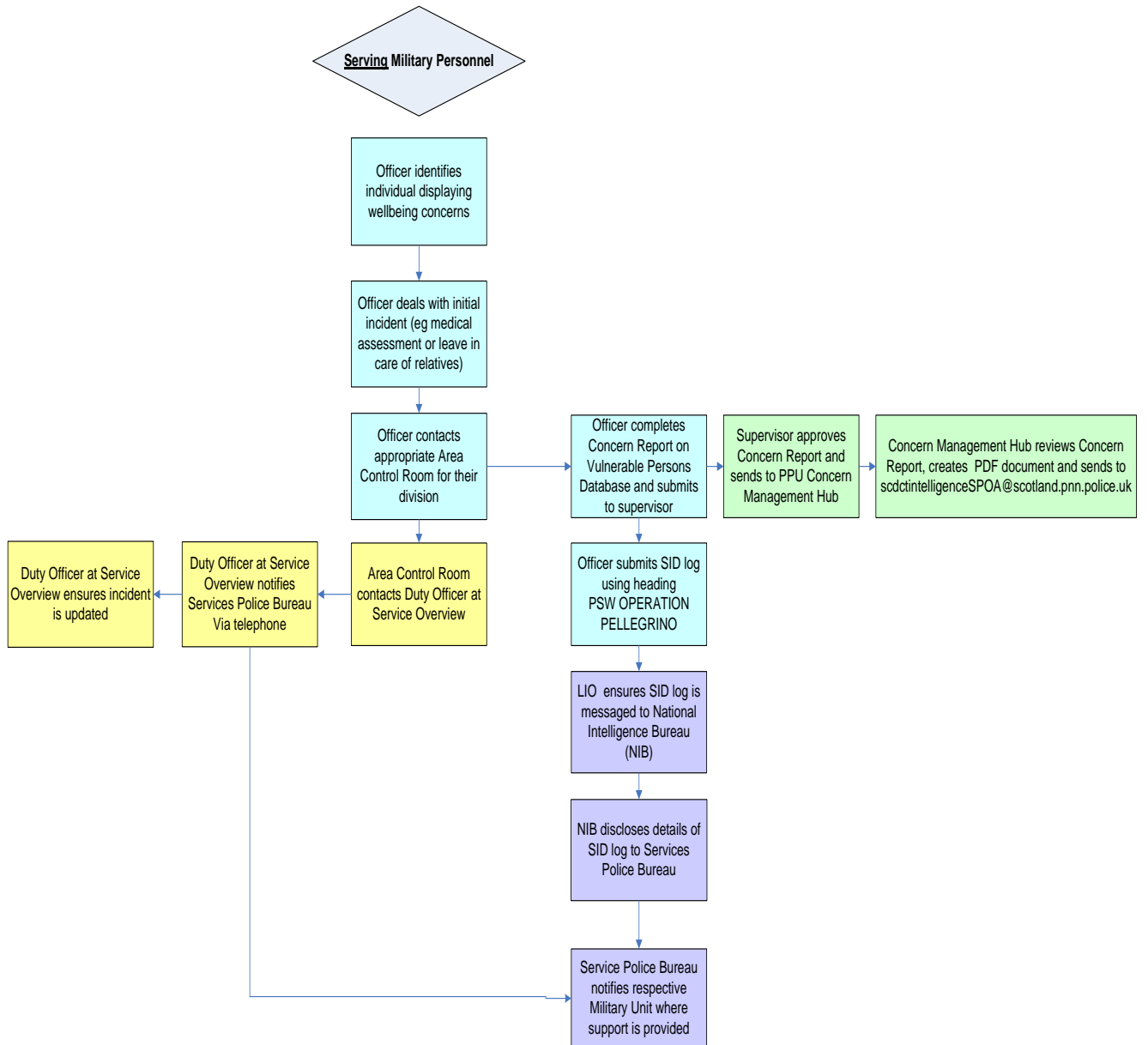
List of Associated Reference Documents

- Special Leave SOP
- Scottish Government Circular 4/2007
- Application of the Criminal Justice (Scotland) Act 2016 2016 to Arrests of Service Personnel

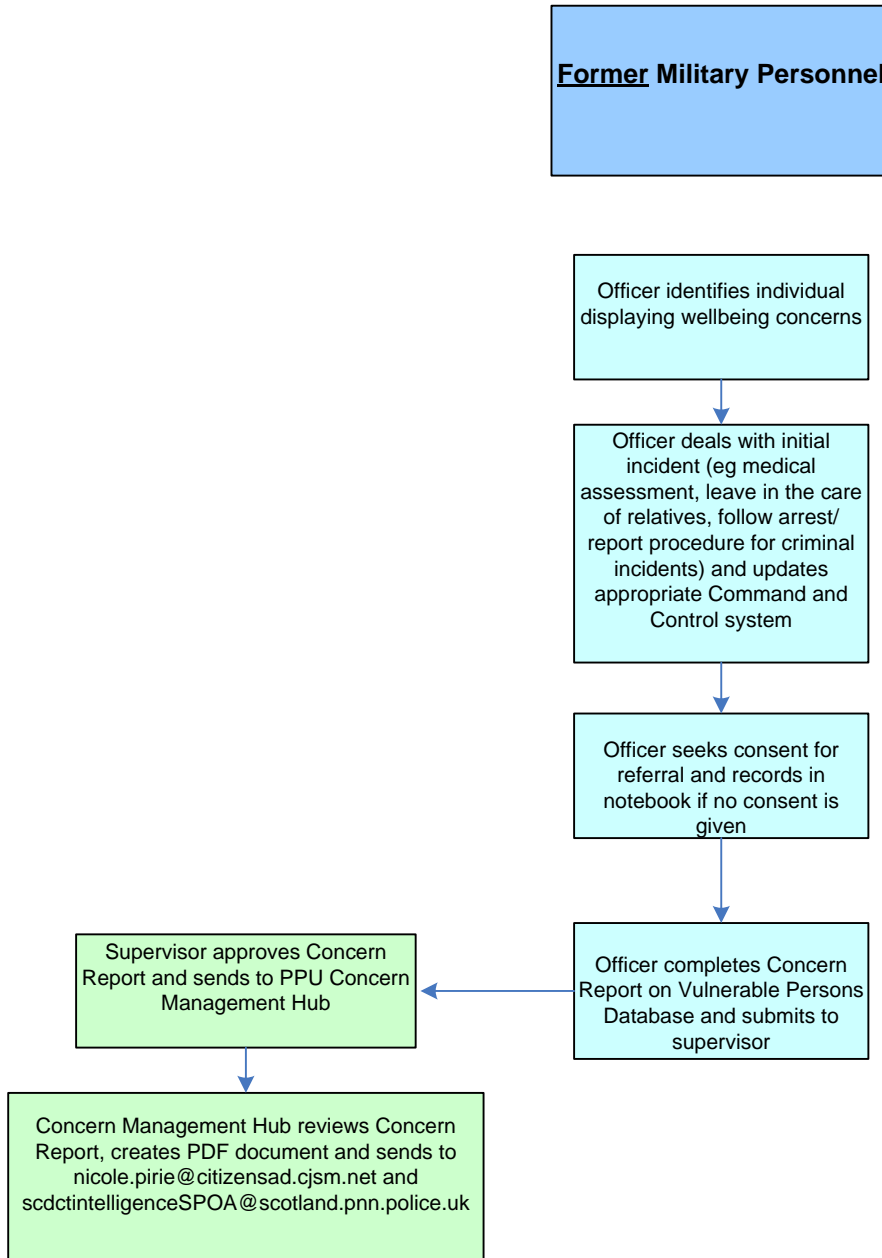
List of Associated Generic Police Scotland Forms

- Certificate of Release
- Certificate of Transfer to Service Custody.

Wellbeing Concerns Relating To Serving Military Personnel Flowchart



Wellbeing Concerns Relating To Former Military Personnel Flowchart



Wellbeing Concerns Relating To Former and Serving Military Personnel in Custody Flowchart

