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P.O.L.I.C.E

Keeping our communities safe

Freedom of Information Office
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Date: 22 December 2008

Mr David Mery

By Email

Dear Mr Mery,

FREEDOM OF INFORMATION REQUEST 454/08

I refer to your email of 28 November 2008, in which you requested information in terms of the Freedom of Information (Scotland) Act 2002.

I have repeated your request hereunder, for your ease of reference;

Please provide the detailed process that is followed to remove the DNA records of an individual whose DNA was sampled by your force (either because the lawful retention period expired or the chief of your police force decided to delete the DNA records for any other reason).

I expect the process to describe the several steps required to ensure that the DNA samples are physically destroyed and the DNA profile deleted from the database(s) to which it has been uploaded: which actions are performed by which roles in which department, how is this verified, how is this communicated, etc.

I have made enquiry with the Force and the following explanation of procedures answers your questions;

The Criminal Procedure (Scotland) Act 1995, as amended, allows for a Police Constable to obtain a DNA sample from an individual suspected of a crime.

Whilst a crime is under investigation a DNA sample is routinely obtained from any offender(s) dealt with by the Police. If this is the first sample that has been taken from the individual it is delivered to the Scottish DNA Database Laboratory at Dundee by the Force DNA Liaison Officer for profiling and is classified as DNA 'Temporary' (DNAT)

Any further samples subsequently obtained from the same individual for other crimes during the 'temporary' period are retained locally as 'pending' samples at Grampian Police Headquarters under the control of the DNA Liaison Officer until such time as the initial detected crime is disposed of.

Where a conviction is obtained in respect of the first crime any other locally held 'pending' samples are destroyed by the DNA Liaison Officer by means of clinical

disposal and all associated paper records are shredded. The DNA sample relating to the convicted case that has already been profiled at Dundee is retained there indefinitely and the individual is recorded on the DNA Database as DNA confirmed (DNAC)

Other than in the circumstances specified hereunder, where the Procurator Fiscal intimates 'no proceedings' in respect of such a crime or where no conviction is secured, the Force Criminal Records Office is notified and the DNA Liaison Officer is updated accordingly. The DNA Liaison Officer thereafter notifies the Dundee Database and they destroy the DNA sample as per their 'Destruction Programme'. However, if any further 'pending' sample is held locally for the same individual that relates to a separate outstanding detected crime then this sample is forwarded by the DNA Liaison Officer to Dundee where the process outlined in paragraph 2 above is repeated.

On 1 January 2007, following legislative changes by the Scottish Government, Section 18(A) of the Criminal Procedure (Scotland) Act 1995 was amended and the law regarding the retention of certain DNA samples in Scotland was altered.

These changes allow for the temporary retention of DNA from individuals who have had proceedings initiated against them for certain violent or sexual offences but who are not subsequently convicted.

The Force receives notification from the Crown Office Procurator Fiscal Service of cases to which Section 18 (A) apply and the DNA Liaison Officer communicates this information to the DNA Database at Dundee where the 'Temporary' profile is converted to a 'Section 18 Retention' profile. The retention period for these cases is 3 years and the Force DNA Liaison Officer will be advised 3 months before the expiry period so the Force can consider whether the Chief Constable should apply to the Sheriff for a further extension of 2 years, as allowed by legislation.

To date, Grampian Police have not had any of their ' Retention ' profile cases approach the end of their 3 year period, so have not yet had to consider any applications to extend the retention period, nor have they had to communicate to the Dundee Database the requirement to destroy of any Section 18(A) samples.

I hope that this information is helpful to you.

Please do not hesitate to contact me should you have any queries. However, if you are not satisfied with the way in which your request has been dealt with, you are entitled, in the first instance, to request a review of the decision made by the Force. Should you wish to proceed, please write to Iain Gray, Head of Information Disclosure Unit, Grampian Police, Woodhill House, Westburn Road, Aberdeen, AB16 5AB, within 40 working days of receiving this letter, stating clearly that you request a review and the decisions you wish reviewed.

If, after having been informed of the review decision you are still not satisfied, you are entitled to apply to the Scottish Information Commissioner for a decision. Contact details are Office of the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS, telephone 01334 464610.

Yours sincerely,

Miss Jody Stewart
Assistant Manager – Freedom of Information