

14 November 2008

Your Ref:

Our Ref: 0899/2008

John Anderson
Email: (request 4129-5f660261@whatdotheyknow.com)

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Dear Mr Anderson

FREEDOM OF INFORMATION REQUEST REFERENCE NUMBER 0899/2008

I refer to your request for information dated 14 November 2008, which was received by Strathclyde Police on the same date. Your request has now been considered and on 14 November 2008, a decision was made to grant your request in full. As such, the information you have requested, although otherwise accessible, is detailed below.

You asked for information in relation to the Enhanced Disclosure process:

"I wish to know how long police forces in Scotland hold information on people who were charged but not convicted of an offence in a court ie, acquitted, not guilty or not proven. I also wish to know how long this information is disclosed on an enhanced disclosure application under the additional information section for the following offences:

Assault Drink Driving Breach of the Peace."

Firstly, I can advise that information relating to an individual's criminal history is not retained as such by individual police forces but rather is held on the Police National Computer (PNC) and the Scottish Criminal History System (CHS) managed by the Scottish Police Services Authority (SPSA) who advise, *"the Criminal History System (CHS) is a dynamic database and interactive investigative tool which plays an important role in day to day policing. It provides the operational police officer with essential information on a person under enquiry. Essentially it is an index of records about individuals who have a criminal record. This information includes details such as names, aliases and known addresses"*.

Further information on the CHS can be found at:

http://www.spsa.police.uk/services/information_services_criminal_justice_criminal_history_system_chs

Information on the CHS weeding policy can be found on both the SPSA and Disclosure Scotland websites at:

<http://www.spsa.police.uk/documents/71/71.pdf>

<http://www.disclosurescotland.co.uk/PDF/WEEDING%20POLICY.pdf>

Criminal cases reported to the Procurator Fiscal for the consideration of prosecution are initially recorded as Pending Cases and those which do not subsequently result in a recorded conviction are removed (or weeded) within 6 months of such notification.

However, reference to the Disclosure Scotland website:

<http://www.disclosurescotland.co.uk/typesofdis.htm>

advises that, "*the **Enhanced Disclosure** (termed as an "enhanced criminal record certificate" in Part V of 1997 Act) is available when an exempted question is being asked for a prescribed purpose as set out for certain circumstances specified in regulations 9 to 12 of the Police Act 1997 Criminal Record (Scotland) Regulations 2006 – the "2006 Regulations", although this has been amended. These are mainly posts working with children or adults at risk and those involving certain statutory registration, certification and licensing requirements.....and a copy of the Disclosure will be sent to the applicant and the Countersignatory*".

In addition to spent or unspent conviction information, Enhanced Disclosures may also contain information on the applicant which is known to the police and which, in the opinion of a Chief Constable or Chief Officer, is considered relevant for disclosure in view of the position being offered.

For example, this may be information on someone who has been tried and acquitted of the same offence several times - perhaps involving children - but has not been convicted; or perhaps someone has a pending case against them and are due in court the following month regarding an offence involving children or violence towards or mistreatment of someone in a nursing home.

This sort of information is a matter of fact, and it is up to the police to decide on its relevance for disclosure purposes. That decision always rests with the police: the staff of Disclosure Scotland have no part in this decision-making process. In most cases, the non-conviction information disclosed is included in the copy of the Disclosure which goes to the applicant".

In certain instances, however, this information will not be provided to the applicant in the interests of the prevention and detection of crime.

I hope this information is helpful, 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 request such a review, please write to Mrs Sheena Brennan, Disclosure Manager at the above address within 40 working days of receiving this letter.

Once informed of the Review Panel's decision, if you are still not satisfied, then 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.

I would like to take this opportunity to thank you for your interest in Strathclyde Police. Should you require any further assistance concerning this matter please contact me directly on 0141 435 1205 quoting the reference number given.

Yours sincerely

Graeme Cuthbertson
Inspector
Force Disclosure Unit