

10 April 2013

Your Ref:

Our Ref: 0233/2013

Mr Paul Hughes
Request-152745-8eafa5d3@whatdotheyknow.com

Police Service of Scotland
Information Management
173 Pitt Street
G2 4JS

Tel: 0141 435 1204

Fax: 0141 435 1218

Dear Mr Hughes

FREEDOM OF INFORMATION REQUEST REFERENCE NUMBER 0233/13

As you may be aware, as of 1 April 2013, the Police Service of Scotland (PSoS) came into existence and all requests made to individual Forces pre 1 April become the responsibility of PSoS to answer. Therefore, the information provided below only relates to the information you sought from the previous Force area and if you made a similar request to another previous Force area, you will receive a separate response in this regard.

I refer to your request for information dated 11 March 2013, which was received on same date. Please find below the relevant parts from the Precognitions, Leave and Citations, Complaints & Indictments Standard Operating Procedures.

I would like a copy of the guidelines and/or advice issued to officers who are called to court as a witness for the Defence.

Citations, Complaints & Indictments SOP

1. CITATIONS

1.1 INTRODUCTION

A citation is a writ or order issued by a court commanding the person named therein to appear at the time and place named.

The guidance contained within this Standard Operating Procedure (SOP) is focussed primarily upon legal processes relating to criminal trials, detailing the procedures which shall be followed in relation to the issue, execution and administration of police and civilian citations.

For further information, reference should be made to the "Guidelines issued by the Lord Advocate to Chief Constables in relation to the citation of witnesses", which are included at Appendix A.

Police Officers and Members of Police Staff who fail to attend court in response to a citation received may be committing a criminal offence. Whilst the relevant Court may elect to take no action against Police Officers and Members of Police Staff who fail to attend Court when cited, such failure will be regarded as misconduct unless exceptional circumstances exist.

SCOPE (System to Co-ordinate Personnel and Establishment), contains a Court Diary, the function of which is to record and analyse data relating to Force employees being cited for

court. All citations issued to Police Officers and Members of Police Staff, however received or executed, must be recorded within the SCOPE Court Diary.

Further information on the use of the SCOPE Court Diary is provided within the SCOPE Compliance SOP.

1.2 ADMINISTRATION – PERSONAL SERVICE PROSECUTION CITATIONS

(a) Personal Service Prosecution Citations issued by the Procurator Fiscal consist of a 3 part document:-

Part 1 Witness copy

Part 2 Execution of service copy

Part 3 Police Copy (to be retained for 14 days after date of trial)

(Please note: - No Police copy is currently supplied by the Procurator Fiscal, Glasgow in respect of cases with Crime Reference Numbers relating to Strathclyde Police Divisions A – G).

(b) On arrival at Divisional Headquarters or Departmental equivalent, all citations shall be processed as per local instructions ensuring that no delays take place in the transmission and service of these documents.

N.B. Defence citations, in connection with civil proceedings in which the Chief Constable is the Defender or Respondent, will be served by staff of Legal Services, Force Headquarters only.

(c) Upon executing the citation, the Police Officer/Member of Police Staff shall sign the witness copy and return the completed Police Copy, where included, with execution of service details, to Divisional Process Servers for collation and onward transmission to the relevant issuing authority.

(d) Civilian witness citations issued by the High Court of Justiciary must be served personally on the witness. Under no circumstances should they be left with another person. Only where the witness is a child, is it competent to serve the citation on his/her parent or guardian.

(e) Where it appears that the individual concerned has difficulty understanding, either through language or mental disorder, then appropriate steps should be taken (where appropriate, refer to Interpreting and Translating Services' SOP)

(f) Where the citation cannot be served on a witness:-

- It must be returned promptly to the Divisional Process Servers, for onward transmission to the issuing authority;
- A report on Form 5:27:3 (Citation/Copy Complaint Form), or locally agreed equivalent report, should be attached detailing the enquiry made.

(g) Any person lawfully cited commits an offence if they fail to attend promptly at the hearing concerned. Police Officers and Members of Police Staff are in the same legal position as any other witness cited.

(h) Where a Personal Service Prosecution Citation is received in respect of a Police Officer or Member of Police Staff, who is at that time in attendance at the Scottish Police College, and timescales dictate that they require to be cited during that period of attendance, the citation should be immediately forwarded for service. In cases of short notice, advance warning should be given by telephone or fax.

(i) Where a Police Officer or Member of Police Staff has transferred to another Force, any Personal Service Prosecution citations received:-

- Which are of an urgent nature, or relate to a trial diet within three weeks of its receipt, the Procurator Fiscal shall be advised by telephone; or
- Which are of a non-urgent nature, or relate to a trial diet more than three weeks after its receipt, shall be returned to the Procurator Fiscal with a note of the officer's current working address.

(j) The receipt of Personal Service Prosecution Citations concerning trials outwith the Strathclyde Police area should be notified to the recipients Divisional Commander/Head of Department. Liaison should be maintained with the Force issuing the citation in an attempt to minimise the length of time that the officer is away from the Strathclyde Police area.

(k) All Personal Service Prosecution Citations received in respect of a Police Officer or Member of Police Staff require to be recorded on the SCOPE Court Diary. Local procedures will be adopted to manage this process, ensuring that the receipt of such a citation is followed

by the immediate manual update of the SCOPE Court Diary to reflect its duty management implications.

(l) Where a Personal Service Prosecution Citation is received in respect of a Police Officer or Member of Police Staff who has retired or resigned, Divisional Process Servers should contact Human Resources Department, Force Headquarters, to obtain the home address of the former Police Officer/Member of Police Staff. The citation should then be forwarded to Process Servers at the Division of residence of the former Police Officer/Member of Police Staff for execution.

1.3 ADMINISTRATION – ELECTRONIC PROSECUTION CITATIONS

(a) Where citations in respect of Police Officers and Members of Police Staff are received electronically, they will be managed through the Intranet Case Reporting System (ICRS). The receipt of electronic prosecution citations will automatically update the SCOPE Court Diary. Police Officers and Members of Police Staff shall, during every tour of duty, monitor their ICRS Personal Workload ensuring that all citations received are acknowledged promptly. Police Officers and Members of Police Staff with a supervisory role shall, during every tour of duty, monitor their own ICRS Personal Workload and Supervisors' Overview(s), relevant to staff for whom they have responsibility, ensuring that all citations received are acknowledged promptly.

Upon receipt from the Procurator Fiscal, all citations will be electronically directed and administered as follows:-

(b) Where a Police Officer/Member of Police Staff is identified as the intended recipient of the electronic citation:-

- It shall be directed to the ICRS Personal Workload of that Police Officer/Member of Police Staff;
- Where service of a citation before the trial diet is not possible, due to annual leave etc. the Procurator Fiscal must be informed by the Supervisor of the intended recipient at the earliest opportunity.

When attending Court, following receipt of an electronic citation, Police Officers/Member of Police Staff shall be in possession of a printed copy of the electronic citation, allowing Court Officers to append a stamp to confirm their attendance.

Upon return to duty following release from Court, Police Officers and Members of Police Staff shall record details of their attendance within the relevant section of the printed citation. Police Officers and Members of Police Staff must then pass the printed citation to an on-duty supervisor, who shall ensure that the SCOPE Court Diary is updated to reflect this information.

When a Police Officer/Member of Police Staff continues duty following release from Court, an on-duty supervisor must update the SCOPE Court Diary with the release time as soon as is reasonably practicable.

Further information is provided within the SCOPE Compliance SOP.

(c) Where a Police Officer/Member of Police Staff is not identified as the intended recipient of the electronic citation:-

- The citation will be routed to the Divisional Case Management Unit (CMU) ICRS Group Workload relevant to the Crime Reference Number quoted thereon.

- CMU staff will monitor the Group Workload and on receipt of citations will endeavour to identify the Police Officer/Member of Police Staff from the details of the case.

- Where a Police Officer/Member of Police Staff is identified by CMU they shall reallocate the citation to the ICRS Personal Workload of that Police Officer/Member of Police Staff.

- CMU shall then manually update details of the citation to the SCOPE Court Diary.

- Where CMU are unable to identify the Police Officer/Member of Police Staff, they will return the citation to the issuing Procurator Fiscal seeking clarification.

(d) Where an electronic citation is received within the ICRS Personal Workload of a Police Officer/Member of Police Staff and it is identified that the citation is not intended for that individual:-

- The recipient shall immediately inform their supervisor of the circumstances.
- The supervisor shall immediately reallocate the electronic citation to CMU, who shall make further enquiries to ensure the correct Police Officer/Member of Staff is cited.
- CMU shall update the SCOPE Court Diary, showing the Police Officer/Member of Police Staff incorrectly cited as being countermanded and the Police Officer/Member of Police Staff for whom the citation was intended as being cited.
- CMU shall liaise with the Procurator Fiscal to ensure that their records are updated in order that any further correspondence relating to that matter is directed in the first instance to the correct Police Officer/Member of Police Staff.

(e) Where an electronic citation is issued by the Procurator Fiscal less than 72 hours before the trial diet, a paper/fax copy will also be sent by the Procurator Fiscal to allow, where necessary, the Police Officer/Member of Police Staff to be cited by Officers outwith their immediate line management.

(f) Local procedures will be adopted to manage this process, ensuring that the service of the citation is followed by the immediate update of both ICRS and SCOPE to reflect its execution and duty management implications.

(g) Following the trial date, the citation will be automatically filed on ICRS. Upon receipt of a countermand, the electronic citation, together with the countermand, can be reallocated to the Group Workload in order to minimise the volume of forms within the users Personal Workload. Both the citation and related countermand will remain within the Group Workload until automatically filed one day after the trial date.

Further information is provided within the SCOPE Compliance SOP.

1.4 ADMINISTRATION – NON-PROSECUTION CITATIONS

(a) Where a Police Officer or Member of Police Staff is cited in their official capacity for any of the following hearings:-

- Any Civil Court Inquiry or Tribunal;
- Any Court Martial;
- For the defence in any Criminal Trial;
- Any of the foregoing outwith the Force area; or
- Any Criminal Injury Compensation Authority (CICA) hearing.

A report of the circumstances is to be made to the Divisional Commander/Head of Department without delay. This report should be retained locally.

(b) Upon receipt of a non-prosecution citation, a Police Officer/Member of Police Staff must inform their supervisor immediately, who shall manually update the SCOPE Court Diary to reflect its duty management implications.

(c) On conclusion of their involvement, the Police Officer/Member of Police Staff will submit a second report to the Divisional Commander/Head of Department, detailing the time and expense incurred in order that an account can be raised by the Finance Section.

(d) Police Officers/Members of Police Staff will not accept the direct payment of expenses.

(e) Police Officers/Members of Police Staff shall not attend a Court Martial unless authorised by their Divisional 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.

1.5 CIVIL PROOFS

A report should be forwarded to the Procurator Fiscal on every occasion that Police Staff are cited to attend a civil proof in connection with a police related matter. This applies whether or not a case has been reported to the Procurator Fiscal previously, as the Procurator Fiscal may require to become involved if it is deemed necessary to resist disclosure of confidential information.

Such a report shall detail, where relevant, the Police Reference Number, Procurator Fiscal Reference Number and the name of the accused. This report shall detail the circumstances of the matter, and will in particular; highlight any areas which may result in a request for Police Officers/Members of Police Staff to disclose confidential information.

1.6 CITATION BY SOLICITORS

On occasion, Solicitors acting on the instructions of their client may cite Police Officers/Members of Police Staff. Notwithstanding a Solicitor's duty to their client, only those witnesses relevant to the case should be cited and the Solicitor must be in a position to justify the citation of all witnesses to the Court.

1.7 CITATION AS A PRIVATE INDIVIDUAL

(a) Where a Police Officer/Member of Police Staff is cited to attend Court as a private individual, whether as a witness and/or complainer, during a rostered tour of duty, the Police Officer/Member of Police Staff may elect to pursue one of the following courses of action:-

- Request leave without pay;
- Request annual leave; or,
- Request time off in lieu.

Where Police Officers/Members of Police Staff attend Court, having been granted annual leave or time off in lieu, they are not entitled to reimbursement from the citing authority.

Strathclyde Police will not compensate Police Officers/Members of Police Staff by either payment or further time off in lieu in respect of their attendance at Court as a private individual.

(b) Where Police Officers/Members of Police Staff attend Court having been granted leave without pay, the citation and an accompanying subject report should be forwarded, via Divisional/Departmental line management, to the Finance Department, Force Headquarters. The Finance Department shall stamp the citation to confirm the employment of the Police Officer/Member of Police Staff and append their hourly rate of payment. The citation shall be returned to the cited Police Officer/Member of Police Staff pending Court attendance.

(c) Where a Police Officer/Member of Police Staff has been granted leave without pay, they should, upon their release from Court, present the citation to the Cashiers Office of the Procurator Fiscal, indicating the appropriate hours lost earnings, for reimbursement.

Where the Police Officer/Member of Police Staff has been cited as a witness for the defence, reimbursement for lost earnings should be sought from the defence agent.

A report should be submitted to the Finance Department, Force Headquarters detailing the period of unpaid leave in order that any necessary salary adjustments can be made.

(d) If a Police Officer/Member of Police Staff is cited to attend Court as a private individual on a weekly rest day, during a period of annual leave or at a time outwith their rostered duty period, the Police Officer/Member of Police Staff shall be required to attend Court in their own time.

1.8 OVERTIME CLAIM

Claims for Court related overtime will not be processed by the Finance Department, Force Headquarters unless accompanied by either:-

(a) A non-electronic citation bearing:-

- Divisional stamp indicating the date of receipt; and
- A Court Officers stamp indicating the date and time of release from court.

(b) Where a citation is administered electronically, a printed copy of the citation, stamped by the Court Officer, confirming attendance and the date and time of release from Court, will be required.

(c) It should be noted that any Court related overtime request administered on SCOPE will display the date the citation was received on ICRS, the date the citation was acknowledged and the first date the individual was rostered on duty.

Further information in relation to Court related overtime claims is provided within the SCOPE Compliance SOP.

1.9 CITATION OF A SUSPENDED POLICE OFFICER/MEMBER OF POLICE STAFF

(a) Where a Police Officer/Member of Police Staff, currently suspended, is cited electronically, supervisors, whose line management includes the suspended person, shall notify the liaison officer for that person without delay. The liaison officer will then make the necessary arrangements to have the suspended person cited.

(b) Where a Police Officer/Member of Police Staff under suspension is the subject of a citation delivered less than 72 hours before the trial diet, the hard copy of the citation shall be passed to the liaison officer for that Police Officer/Member of Police Staff. If the citation is received outwith office hours and the liaison officer is not on duty, the hard copy of the citation shall be passed to a supervisor. The supervisor will identify the Division of residence of the suspended person, and arrange for a STORM incident to be created requiring a local supervisor to attend at the home address of the suspended person and execute the citation.

(c) When cited the relevant STORM incident number will be noted by the supervisor executing the citation for inclusion in the comments field of the electronic citation.

The supervisor receiving the hard copy citation shall ensure that the liaison officer for that Police Officer/Member of Police Staff is informed of the circumstances.

1.10 CITATION OF SPECIAL CONSTABLES

(a) Special Constables shall monitor their ICRS Personal Workload during every tour of duty and acknowledge any unread citations.

(b) Community Policing Team Sergeants, or an otherwise locally approved line manager, shall, during every tour of duty, monitor ICRS Supervisors' Overview and inform Special Constables of any citation issued to them. That person shall retrieve the citation into their ICRS Personal Workload and ensure that the citation is 'Marked as Read', with a note entered within the comments field detailing the time, date and manner of the Special Constables citation.

The citation shall then be reallocated to the Special Constables ICRS Personal Workload. Special Constables shall take a printed copy of the citation to Court in order that Court Officers may stamp the citation to confirm their attendance.

(c) Special Constables shall complete the relevant section of the printed copy citation with details of their time spent travelling to court, time waiting to give evidence and time giving evidence, and will provide this information to the Community Policing Team Sergeant, or locally approved line manager as soon as is reasonably practicable.

The Community Policing Team Sergeant, or an otherwise locally approved line manager, will ensure that this information is updated to the SCOPE Court Diary.

Further information in relation to Police Officers/Members of Police Staff attending at court is provided within the SCOPE Compliance SOP.

Leave Standard Operating Procedures

17 CITATION FOR COURT DURING PERIOD OF ANNUAL LEAVE

17.1 Where a Police Officer or Member of Police Staff receives a citation for court on a date which falls within their allocated annual leave subgroup or period of annual leave, or where the court sitting encroaches or is likely to encroach upon their allocated annual leave

subgroup or period of annual leave, the officer should request their excusal. Citations received for any solemn procedure are for the duration of the sitting not just the initial date cited and a subject report requesting excusal must be submitted if the sitting encroaches or is likely to encroach upon the leave period. Further information is available within the Citations, Complaints and Indictments SOP.

17.2 Early contact with the Procurator Fiscal (PF) to request excusal may assist in making arrangements to reschedule proceedings, agree evidence or citing alternative witnesses.

17.3 Request for excusal - The officers line manager (or other suitable line manager where necessary) should be informed of the citation and thereafter the Police Officer or Member of Police Staff should submit a subject report (pro forma on the Office System Centre (OSC) library) immediately to the appropriate PF Office in accordance with local procedures.

17.4 Police officers and members of police staff should allow the PF a reasonable amount of time to consider the request and respond; however, where no response is received or where waiting is inappropriate, it is the responsibility of the requesting officer or member of staff to make enquiries with the PF prior to the commencement of leave.

17.5 Where an individual has been unable to obtain a response from the PF, the officer's/member of staff's line manager should assist on their behalf.

17.6 NOTE: - Unless explicitly informed by the PF that they are excused court attendance or permitted to travel in accordance with the stand-by scheme, officers/member of staff must attend court as cited.

17.7 Where an officer/member of staff submits an excusal request in line with Paragraph 17.3 above and it later becomes apparent that they will not be on annual leave on the relevant date (or sitting dates), a further subject report explaining this should be submitted to the PF.

18. STANDBY SCHEME – NON-EXCUSAL FROM COURT DURING ANNUAL LEAVE

18.1 The standby scheme is for police officers and members of police staff cited to court during annual leave and subsequently not excused from attendance.

18.2 The scheme is an arrangement agreed by Strathclyde Police and the Area PF for the Strathclyde area intended to allow, where possible, officers and members of staff to continue with pre-arranged travel, while remaining on stand-by to return to for court attendance. It should be noted that only on very rare occasions are officers/members of police staff required to return for court appearance.

18.3 The provisions and support provided by the standby scheme may also be used where a citation results in a police officer or member of police staff delaying their holiday departure.

18.4 Non-Excusal - Where an officer or member of police staff has not been excused from court attendance but has been permitted by the PF to go on the standby scheme and the officer's leave address will be other than their normal place of residence, the officer must complete Force Form 1:31:2. This form should be submitted through line management to the Area Commander or departmental equivalent for endorsement. Thereafter, the form should be forwarded by fax or hand, preferably during office hours to the nominated divisional/departmental office where it will be retained pending travel arrangements being organised, if required.

18.5 Officers or members of police staff should confirm that the form has been received by the relevant divisional/department in a legible condition.

- 18.6 The PF should be contacted by the nominated divisional/departmental office and act as the PF's point of contact for the officer. Under no circumstances should the officer or member of police staff's contact details be left directly with the PF.
- 18.7 The PF should be made aware of the amount of notice normally required to facilitate a court attendance. The amount of notice will be relative to the police officer or member of police staff's whereabouts and ease and frequency of suitable forms of travel to and from there.
- 18.8 At least 24 hours notice will be required for routine European destinations near major airports. Other destinations may require considerably more notice.
- 18.9 Regular updates should be sought from PF regarding the requirement to return the officer from holiday for court appearance.
- 18.10 Should the PF/Court require the police officer or member of police staff return for a court appearance, they should be contacted and informed as such. Arrangements should be made by the nominated departmental/divisional office with the Force Administration Department to arrange flights, accommodation, car hire, parking etc to return the officer in sufficient time to be able to properly give evidence.
- 18.11 Similar arrangements should be established for the officer/member of police staff to return to their holiday on release from court.
- 18.12 Note: It is not sufficient for an officer or member of police staff to submit a subject report requesting excusal from court and thereafter complete Force Form 1:31:2 without receiving a response from the PF: there must be explicit confirmation from the PF that they may proceed with their leave under the provisions of the standby scheme.
- 18.13 While not expected to restrict their holidays unduly, officers must be in a position to receive messages/telephone calls left at the number supplied on Force Form 1:31:2 in sufficient time to return for court within the notice period agreed with the PF. It is essential that officers remain contactable when on the approved standby scheme.
- 18.14 In the event that an officer or member of police staff is required for court at short notice and the Administration Department is not available (e.g. cited on a Friday evening for the following Monday morning), there may be a requirement for divisional staff to make travel arrangements via the out of hours service as detailed in the Travel and Accommodation SOP.
- 18.15 For the avoidance of doubt, the Administration Department will not process travel arrangements under the standby scheme until they have received a correctly completed and authorised travel requisition form.
- 18.16 Officers/member of police staff should not make their own travel arrangements as part of the standby scheme unless expressly directed to do so.
- 18.17 It may be possible for standby scheme travel arrangements to include family members where it is impractical for them to remain on holiday while an police officer or member of police staff returns for court (e.g. small children, special needs, elderly or where it is inappropriate for those with the returning officer to remain). The inclusion of such others in the standby scheme should be requested using the relevant section in Force Form 1:31:2 and is subject to approval of the Area Commander or equivalent.
- 18.18 Officers/member of police staff who fail to secure an approved standby and proceed to go on holiday may be liable for expenditure incurred in returning for court.

18.19 Note: Police Officers are subject to the provisions laid out in Section 17 of the Police (Scotland) Act 1967 in relation to court attendance. Should a Police Officer or Member of Police Staff fail to attend court when lawfully cited they may be subject to criminal legal and/or misconduct proceedings.

19. DEFENCE/CIVIL TRIAL CITATIONS DURING PERIOD OF ANNUAL LEAVE

19.1 If cited as a defence/civil case witness, the officer/member of staff should immediately submit a subject report via line management to the Area Commander or equivalent who should thereafter forward a letter to the appropriate citing body (e.g. defence agent) requesting excusal.

19.2 Where an officer/member of police staff is cited to attend court as a defence/civil case witness resulting from his or her duties as a constable or as part of their employment, the above provisions shall apply. In order for the Force to claim reimbursement of expenses from the relevant citing authority (e.g. defence solicitor), a subject report, outlining all travel and other necessary expenses, should be submitted to the Finance Department, Force Headquarters via the Divisional Commander/Head of Department. The Citations, Complaints and Indictments SOP contains further guidance on this.

I would like a copy of guidelines and/or advice issued to officers in respect of giving a precognition statement to an agent acting for the Defence team.

Precognitions Standard Operating Procedures

1. INTRODUCTION

1.1 A precognition is an interview on a question and answer basis of persons who may be required to give evidence before a court.

1.2 Precognitions form an integral part of the Criminal Justice process and are an effective means of providing further information to defence agents which may in turn lead to the early submission of a guilty plea.

1.3 All precognitions requested will be recorded on SCOPE as an Amended Duty via the Duty Roster.

1.4 Police officers taking part in such interviews are to prepare themselves prior to the event and should not read statements into recording devices, nor should the statements be handed to the interviewer for dictation into any such recording device.

1.5 Information contained in documents, such as driving licences, should not be given and expressions of opinion should be avoided unless specifically sought and, in any such case, discretion should be exercised.

1.6 If, during the course of an interview, an officer recalls information, which had not previously been supplied to the Procurator Fiscal then this information may be supplied to the defence agent. Immediately thereafter, the Procurator Fiscal should be advised of such new information by submission of a subject report, giving the relevant Crime Reference number and case details.

1.7 Copies or transcriptions of documentary evidence or copies of photographs supplied to the Procurator Fiscal will not be supplied without the consent of the Procurator Fiscal.

1.8 Police officers should be aware that it is not the policy of this Force to require officers to sign precognition statements in respect of either criminal or civil cases.

1.9 Any request for information that specifically mentions the Freedom of Information (Scotland) Act 2002, must be dealt with in accordance with the Freedom of Information (Scotland) Act 2002 Standard Operating Procedures.

2. CRIMINAL CASES

2.1 When solicitors wish to precognosce police officers in criminal cases they will contact the police office concerned and arrange a suitable time and date for the interview through a supervisory officer.

2.2 The supervisor should take all reasonable steps to arrange a mutually suitable time for precognition, utilising the SCOPE Duty Management function and adding the precognition as

“Add / Amend Duties - Precognition”. Full details of the precognition including the Crime Reference number and contact details of the requesting agent should be added to the free text field. The SCOPE system will generate an e-mail notification to the officer(s) concerned and the respective supervisor(s).

2.3 Where no suitable time for the precognition is immediately identifiable, the details of the requesting agent should be passed by the supervisor taking the request to a supervisor of the officer(s) concerned with a clear instruction for him or her to make contact with the requesting agent on his/her return to duty. The supervisor of the officer concerned should then arrange a suitable time for the precognition and update the SCOPE Duty Management roster accordingly (as paragraph 2.2).

2.4 Requesting agents should not be passed contact details for officers to be precognosed with an instruction to contact them directly to make arrangements.

2.5 Unless in cases of urgency, three days’ notice to the officer concerned should normally be given. In the event that the precognition cannot be arranged due to the officer being on long-term absence, retired or otherwise unavailable, arrangements should be made for an alternative officer to attend or to explore other avenues (e.g. access to notebook, statements on Intranet Case Reporting System (ICRS)). Where circumstances prevent a precognition taking place the applicant should be advised accordingly.

2.6 Police officers will not attend solicitors’ premises for precognition purposes.

3. DEFENCE PRECOGNITIONS

3.1 A Defence Precognition may be given but a report should be made to the Divisional Commander who is to ensure that the Procurator Fiscal is informed. Should an accused be conducting his/her own defence then precognition facilities are afforded as they would be to a solicitor acting on his/her behalf. Where this happens, or if the accused wishes to be present at the precognition conducted by his/her solicitor, then an independent supervisory officer should also be present.

4. CIVIL CASES

4.1 Precognition in civil cases is to be arranged by a written application to the Chief Constable. Precognitions in civil cases, which are the subject of reports to Crown authorities are not to be given without the authority of the Procurator Fiscal.

4.2 Enquirers should be advised that under Scottish Office Home and Health Department Guidelines the Chief Constable may charge a fixed fee per officer precognosed in a civil case. Payment is required in advance and cheques should be made payable to "Strathclyde Police". For information on charges telephone Information Resources.

4.3 When the precognition has been requested notification of the request will be issued from Force Headquarters, Information Resources through the supervisor of the officer concerned who will arrange the interview. The precognition must be at a police office and should be arranged via the SCOPE Duty Management system (see paragraph 2.2).

4.4 In the event that the interview cannot be arranged due to the officer in question being on long-term absence, retired or otherwise unavailable, arrangements should be made for an alternative officer to attend or to explore other avenues (e.g. access to notebook, statements on ICRS). Where circumstances prevent a precognition taking place, the applicant should be advised.

4.5 When the interview has taken place, the notification memorandum should be completed as appropriate and returned to Force Headquarters, Information Resources. Reference should be made to any additional officers who were precognosed.

4.6 During the course of the interview, an officer should not disclose any information which came to his/her knowledge as a result of the exercise of his/her statutory powers, e.g. the examination of driving documents etc.

4.7 Should an officer receive a request to give a precognition or provide a statement for a matter relating to civil proceedings then, that officer must not divulge the name and address of the witness nor the content of his or her statement to the third party. This prohibition applies both at precognition and in response to a specific request for a copy of the witness's statement.

4.8 Where an officer is cited as a witness to give evidence in civil proceedings and these relate to a matter regarding possible criminal proceedings, whether or not a report has been submitted to the Procurator Fiscal, that officer must submit a subject report to the Procurator Fiscal concerned via the Divisional Commander. This report is to advise the Procurator Fiscal of the circumstances and thus allow consideration to be given as to whether or not the Crown may apply for a Public Interest Immunity Certificate.

4.9 Should the incident involve a suicide then the presence of a suicide note may be disclosed, as may the contents of the note if the details are recalled.

5. PROFESSIONAL DISCIPLINARY HEARINGS

5.1 Before any police witness is precognosed by any professional disciplinary body concerning information obtained, by any means, in the course of criminal investigation, a report must be submitted to the Chief Constable and approval obtained.

6. PRECOGNITION BY PROCURATOR FISCAL

6.1 Police witnesses are bound to attend for precognition when cited by the Procurator Fiscal

6.2 Whenever possible this should be arranged for such times when an officer is on duty and only in exceptional circumstances will overtime be incurred. Supervisory officers will take all reasonable steps to arrange the foregoing by contacting the Procurator Fiscal concerned. Details of the precognition should be entered onto the SCOPE Duty Management system (see paragraph 2.2).

Can you confirm that officers who are contacted by Defence agents are instructed to seek guidance with regard to offering statements to precognition and/or Defence agents?

This answer is as per Section 3 in the Precognitions Standard Operating Procedures.

I would like to take this opportunity to thank you for your interest in Police Scotland. Should you require any further assistance concerning this matter please contact me directly on 0141 435 1204 quoting the reference number given.

If you are not satisfied with the way in which your request has been dealt with, you are entitled in the first instance and within 40 working days of receiving this letter to request a review of the decision made by the Force. Should you wish to do so, contact details are; Police Scotland, FOI Central Processing Unit, 173 Pitt Street, Glasgow, G2 4JS.

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 within six months 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

Colette McFarlane
Freedom of Information Officer
Police Scotland