



Home Office

Digital, Data and Technology
National Law Enforcement Data Programme
Home Office
2 Marsham Street
SW1P 4DF
www.gov.uk/home-office

Nicola Narka
Via Email: request-674051-
8095b2d4@whatdotheyknow.com

23 July 2020

Dear Ms Nicola Narka,

Freedom of Information Act 2000 Request (Our Reference 59345)

Thank you for your email of 2 July 2020 in which you request information about the new LEDS system. A full copy of your request can be found in **Annex A**.

Your request has been handled as a request for information under the Freedom of Information Act 2000 (FOIA).

We have concluded that the information does not exist in the format that you have requested. However, we have provided the following responses to your questions. We hope that this will provide you with context for LEDS as a system and its relationship to PNC and PND.

Q1. When Will the new LEDS system go live with the result that the PNC and PND become totally obsolete?

A1. The current plans are for LEDS to be delivered in an incremental way. The first LEDS capability is due to be ready for operational use from early 2021. Additional LEDS capabilities will be made available incrementally over a two-year period following the launch. This is a complex transition and the exact date for PNC and PND decommissioning depends not just upon LEDS capabilities going live, but also the speed with which the police forces and other organisations can move away from the existing PNC and PND systems.

Q2. What will the retention period be for nominal records on LEDS in light of the Home Office Privacy Impact report of 2 July 2018?

A2. A nominal record is one where data on an individual will form part of a national record, with the information coming from different sources. Currently, the PNC keeps records in relation to the most serious crimes for up to 100 years after the date of birth of the data subject. Some incidents are kept on PNC for a more limited time, for example the period in which someone is arrested and released which might be less than one day. The framework for records sets are contained in the table below. The PNC record retention has evolved over a period of time and is not the same as for

MoPI (Management of Police Information). The MoPI retention regime is being reviewed currently to make it cover a broader range of information. The length of the retention of LEDS information will be affected by the review of MoPI and by a review of Police Information more broadly. It will also be affected by the outcome of recent court cases and judgements.

Record/Data Set	Framework
Fingerprints/DNA	<ul style="list-style-type: none"> • Protection of Freedoms Act 2012 • Criminal Procedure and Investigations Act 1996 • The principles of management of police information (2014)
Property/Evidence	<ul style="list-style-type: none"> • Criminal Procedure and Investigations Act 1996 • The principles of Management of Police Information (2014)
Operational Info (POLE) (missing persons, intelligence, safeguarding, local crime files etc.)	<ul style="list-style-type: none"> • The principles of Management of Police Information (2014)
Operational Info (POLE) (PNC crime files)	<ul style="list-style-type: none"> • 100 years old rule (2009)
Operational Info (General) (procedural, operational orders, performance etc.)	<ul style="list-style-type: none"> • National Retention Schedule (2016) • Force business need
Custody Images	<ul style="list-style-type: none"> • The principles of Management of Police Information (2014) • Custody Images Review (2017) • Police and Criminal Evidence Act 1984

Q3. Will soft intelligence currently on local force systems (I.e. Witness, victim and crime information which did not lead to a conviction) be transposed onto the system as part of a single “nominal record”? Or will that data be deleted with the result that only soft data created after LEDS goes live will go on LEDS? will soft information be considered to form part of one’s criminal record or not (as is the case with NFAs etc. on PNC)?

A3. The College of Policing is running a Consultation on the Code of Practice for LEDS and further information including a guide to what information will be on LEDS can be found here
https://www.college.police.uk/What-we-do/Standards/Codes_of_practice/Pages/Law-Enforcement-Data-Service.aspx.

PNC maintains information on individuals at various points in the criminal justice system. This includes; arrested, detained, charged, awaiting trial, people with court outcomes, such as conviction (and what the sentence was) or acquittal. The PNC also holds information on people who are wanted for questioning or who are missing and considered vulnerable. This information will be on LEDS. Intelligence information that forms part of the current PND record will be placed onto LEDS. A criminal record contains details about court convictions and other situations in which a person admits guilt (e.g. police caution). For further information please see the National Police Records (Recordable Offences) Regulations (2000) which is available here
<https://www.legislation.gov.uk/ukxi/2000/1139/contents/made>.

Q4. Will someone who does not have a PNC nominal record but who has data held about them on local force systems have a nominal record created for them on LEDS?

A4. .No, A LEDS record is only created if a record exists in PNC or PND. The following roles in LEDS would mean a profile is created - for a:

- Suspect
- Offender
- Controlled Person
- Safeguarded person
- Missing
- Firearms Licensee.

Profiles will not be created if you are:

- Victim
- Witness
- Contacts.

Q5. Will non-police organisations have routine access to LEDS (as is currently not the case with the PNC) or will they still need to ask their local police force to conduct PNC enquiries/creations/amendments etc. for them?

A5. .A number of non-police organisations do have the ability to access PNC data in support of their work and those non-police organisations will have similar access when LEDS is operational. Certain other organisations that need less frequent access to PNC data use ACRO to update and access information on the PNC. This information is available here

https://www.college.police.uk/What-we-do/Standards/Codes_of_practice/Pages/Law-Enforcement-Data-Service.aspx. Further information about ACRO is available here <https://www.acro.police.uk/>.

Q6. Do the security services have to provide justifications for all enquiries they make on PNC or do they get special treatment because of who they are?

A6. Any information held regarding Security Bodies are not covered by the Freedom of Information Act and any information that might be held is withheld under s.23(1). S.23 is an absolute Exemption and a Public Interest Test is not required.

Q7. Can magistrates, judges or the CPS and other court staff access the PNC?

A7. Magistrates and judges do not have direct access to the PNC. It is the responsibility of the prosecuting authorities to provide relevant information from the PNC to the attention of the courts when a prosecution is taking place. The Crown Prosecution Service are provided with this information from the PNC by the prosecuting authorities that use the CPS. Court proceedings are not covered by the Rehabilitation of Offenders Act 1974 and courts can see all convictions, be they spent or unspent. Court staff are aided in the selection of jury members by information from the PNC. The process through which this is done is described here <https://www.cps.gov.uk/legal-guidance/jury-vetting>.

Q8. How does a bad character application process operate? I.e. What process is involved in court proceedings whereby conviction and caution data in relation to a defendant's antecedents on the PNC is applied for and brought to the attention of the court?

A8. Evidence of prior convictions in England and Wales is governed by Part 11 of the Criminal Justice Act 2003 (Sections 98 -113). More information about how the Bad Character Process works is available through the Crown Prosecution Website <https://www.cps.gov.uk/legal-guidance/bad-character-evidence>. In Scotland, different

rules apply. Further information about admitting evidence of previous bad character in Scotland is available from the Crown Office and Procurator Fiscal Service <https://www.copfs.gov.uk/>. Northern Ireland has different rules again and you might want to seek advice from <https://www.ppsni.gov.uk/>. Where the rules permit information from PNC is and LEDS will be used to inform courts about defendant's relevant history. In all jurisdictions the prosecuting authorities are required to place relevant information before the court prior to the trial beginning. The data from the PNC is typically obtained by the organisation who conducted the investigation. The use of PNC data for as evidence of 'Bad Character' (e.g. under Criminal Law Act 2003 or under the Criminal Procedure & Investigations Act 1996) should not be presented as definitive or incapable of challenge.

- Q9. Private Prosecutions do not usually attract police or CPS involvement. Therefore, how do convictions get entered onto the PNC? how do fingerprints and DNA get recorded as well? does an acquittal also get recorded onto the PNC following such a prosecution? Private Prosecutions do not usually attract police or CPS involvement. Therefore, how do convictions get entered onto the PNC? how do fingerprints and DNA get recorded as well? does an acquittal also get recorded onto the PNC following such a prosecution?**
- A9.** The Police and Criminal Evidence Act (PACE) (as amended by Protection of Freedoms Act 2012) provides the police with powers to take DNA and fingerprints in two scenarios. First, when a person is arrested for a recordable offence and taken into a police station (as specified in sections 61 and 63). Second, there are 'retrospective' powers - if a person has been arrested, charged or convicted and has not previously had DNA and fingerprints taken, Schedule 2A provides a power to require the person to attend a police station to have them taken, which can be enforced by arrest if the person does not attend. If a person has been convicted as a result of a private prosecution which did not involve an initial arrest, then the power in Schedule 2A would allow the police to take steps to take their DNA and fingerprints. Only the police have this power, not any other person or organisation who brought the private prosecution. It would be for the police to decide whether to exercise the power.

As retention of DNA and fingerprints is managed through a person's PNC record, in such a case the police would have to create a PNC record showing the person had a conviction. Some organisations undertake private prosecutions using powers that are available to individuals in England and Wales. The organisations that undertake significant numbers of private prosecutions often have agreements with ACRO to access information from PNC and to update the results of the case.

The interaction that the Crown Prosecution Service (CPS) has with Private Prosecutions is outlined in CPS guidance <https://www.cps.gov.uk/legal-guidance/private-prosecutions>.

Yours sincerely,

National Law Enforcement Data Programme
Email foirequests@homeoffice.gov.uk

Annex A

-----Original Message-----

From: Nicola Narka <request-674051-8095b2d4@whatdotheyknow.com>
Sent: 02 July 2020 17:06
To: FOI Requests <FOIRequests@homeoffice.gov.uk>
Subject: Freedom of Information request - PNC and PND questions

Dear Home Office,

1. When Will the new LEDS system go live with the result that the PNC and PND become totally obsolete?
2. What will the retention period be for nominal records on LEDS in light of the Home Office Privacy Impact report of 2 July 2018?
3. Will soft intelligence currently on local force systems (I.e. Witness, victim and crime information which did not lead to a conviction) be transposed onto the system as part of a single "nominal record"? Or will that data be deleted with the result that only soft data created after LEDS goes live will go on LEDS? will soft information be considered to form part of one's criminal record or not (as is the case with NFAs etc. on PNC)?
4. Will someone who does not have a PNC nominal record but who has data held about them on local force systems have a nominal record created for them on LEDS?
5. Will non-police organisations have routine access to LEDS (as is currently not the case with the PNC) or will they still need to ask their local police force to conduct PNC enquiries/creations/amendments etc. for them?
6. Do the security services have to provide justifications for all enquiries they make on PNC or do they get special treatment because of who they are?
7. Can magistrates, judges or the CPS and other court staff access the PNC?
8. how does a bad character application process operate? I.e. What process is involved in court proceedings whereby conviction and caution data in relation to a defendant's antecedents on the PNC is applied for and brought to the attention of the court?
9. Private Prosecutions do not usually attract police or CPS involvement. Therefore, how do convictions get entered onto the PNC? how do fingerprints and DNA get recorded as well? does an acquittal also get recorded onto the PNC following such a prosecution?

Yours faithfully,
Nicola Narka

Please use this email address for all replies to this request:
request-674051-8095b2d4@whatdotheyknow.com