



# **Recording, Weeding and Retention of Information on Criminal History System (CHS)**

**Version 2.00  
2013**

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## Document Information

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Equality Impact Assessment	Author - Raymond McIntyre Senior officer – Ch Sup Gordon Samson
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## Version Control

Version	Date	Authorisation	Information
1.0	20/11/2011	Operations Manager Raymond McIntyre SPSA	Draft policy created
1.1	23/11/2011	Head of Criminal Justice Clare Morgan SPSA	Amendments and corrections to draft document
1.2	08/12/2011	ACC Gordon Samson CHS Portfolio Lead  Ch. Supt Nicholson ACPOS Criminal Justice Business Area	Draft of a formal document detailing ACPOS retention and weeding processes for CHS Data
1.3	01/03/2012	ACC Gordon Samson CHS Portfolio Lead	Amended with clarification of Children's Hearing disposals
2.00	03/06/2013	Raymond McIntyre (National Systems Support)	Reformatting as Police Scotland document

## Version Distribution

Version	Date	Information
1.0	23/11/2011	Head of Criminal Justice – Clare Morgan SPSA Criminal Justice
1.2	08/12/2011	ACC Gordon Samson for approval and submission to Criminal Justice Business area for adoption.
1.3	01/03/2012	Amended with clarification of Children's Hearing disposals
2.00	03/06/2013	Review and reformat for Police Scotland to be approved by Custody and Criminal Justice Senior Management Team

## EXECUTIVE SUMMARY

This document is intended simply as a guide to the management processes applied to data recorded within the Scottish Criminal History System (CHS). Legislative or policy references are not exhaustive and are included only for clarification.

The CHS Weeding and Retention policy has been reviewed and the following summary outlines the key changes to prior arrangements:

1. Alignment of case information (CHS record) with retention of DNA and Fingerprint retention periods as outlined in the Criminal Justice and Licensing (Scotland) Act 2010.
2. In conjunction with above, Fiscal Disposals (Non convictions) will be retained in line with the Forensic Samples as per the Criminal Justice Licensing (Scotland) Act 2010. This amends the current practice of retention - 40/20 or 70/30 depending on nature of offence (See section 5) and also aligns to MOPI guidance and principles.
3. Anticipation of Scottish Government legislation to change classification and treat Children's Hearing disposals as "non-convictions".
4. Anyone who commits a sexual offence will have their conviction retained for 100 years from their birth.

*(Concern was expressed about the potential "clearing" of records for high risk offenders aged 70 and over. Evidence to support this was given in that 1.5% of enhanced disclosures relate to people over 70 years old).*

5. Bail information will be retained for 6 months as opposed to current practise of 3 years regardless of case outcome.

*(Retention of bail information longer than 6 months is inconsistent data management with respect to cases which are resulted as not-guilty/no proceedings. It is considered unlikely and low risk that the existence of bail & conditions more than 6 months old will significantly affect the proceedings of any new case)*

## **CHS – Recording, Weeding and Retention**

### **1. Introduction and Definitions**

- 1.1 Cases created on Criminal History System (CHS) will be recorded as “pending” until resulted by a decision from the Police, Crown and Procurator Fiscal Service (COPFS), Scottish Childrens’ Reporter Administration (SCRA) or the Scottish Court Service (SCS). The resulting of such a case is termed a disposal.
- 1.2 Disposals which are convictions (findings of guilt in court) or non-convictions (alternatives to prosecution) result in the case being deemed “antecedent”. For clarity these include Warnings, Absolute Discharge and Admonishments.
- 1.3 Where cases have a disposal which does not result in an “antecedent” i.e. non finding of guilt, (such as, No Proceedings, No Further Proceedings, Grounds Not Established) these are marked as “temporary retention”.
- 1.4 With the exception of Warnings to Prostitutes each antecedent will be weeded on its individual merits based on the appropriate retention rule i.e. any previous or subsequent “antecedent” will not be affected by the retention rule applicable to another “antecedent”.

### **2. The 40/20 Rule**

- 2.1 The 40/20 rule means that the subject to whom the data applies has to be 40 years old (or over) and the information been on record for at least 20 years (i.e. both conditions must be met) before the CHS will perform an automated weed on the antecedent data.
- 2.2 Cases recorded and subsequently disposed as an antecedent on CHS will generally be retained under the 40/20 rule unless criteria are met for application of another rule.

### **3. The 70/30 Rule**

- 3.1 The 70/30 rule means that the subject to whom the conviction applies has to be 70 years old (or over) and the information been on record for at least 30 years (i.e. both conditions must be met) before the CHS will perform an automated weed on the antecedent data.
- 3.2 In instances of higher level offending, the general 40/20 rule will be replaced by the 70/30 rule where any of the following apply:
  - Conviction is on indictment – Solemn Procedure;
  - The antecedent is a ruling under Mental Health Acts; or
  - Conviction is custodial (imprisonment).

## **4. 100 Years / Life of Subject**

4.1 Convictions will be retained until 100th Birthday where:

- Penalty of Life Imprisonment is imposed;
- Subject is detained during Her Majesty's Pleasure;
- Subject is detained without limit of time; or
- The antecedent is a sexual or sexually aggravated offence.

## **5. Other Offending and Non-conviction disposals.**

5.1 The following disposals weed at 2 years from the date of insertion:

- Police and Senior Police Officer's Warnings;
- Warnings to prostitutes – except when a second warning for soliciting is recorded in this period. The warnings are then to be retained in accordance with the 40/20 rule;
- Police Fixed Penalty Notices;
- Fiscal Warnings;
- Fiscal Disposals (Fines, compensation orders, combined orders and work orders) for non sexual or non serious violent offences\*; and
- Children's Hearing Disposals (Grounds accepted and grounds established) for non sexual and non serious violent offences\*\*.

5.2 The following disposals weed at 3 years from the date of insertion:

- Fiscal Disposals (Fines, compensation orders, combined orders and work orders) for sexual and serious violent offences\*; and
- Non findings of guilt, cases Not Called at court, cases Deserted and Fiscal decisions of No Further Proceedings for sexual and serious violent offences\*.

5.3 Children's Hearing Disposals (Grounds accepted and grounds established) for sexual and serious violent offences.\*\* will be reviewed at 3 years from date of insertion (as these are subjected to review for fingerprint and DNA retention). Continued retention will be based on guidance provided in [\[HTML link to be inserted once document complete – estimated June 2013\]](#)

Application to a sheriff for retention of Forensic samples retention can result in the disposals retention period covered in 5.2 and 5.3 being extended by up to 2 years. Further applications can be made at the end of each extension period.

\*Denotes - Offences prescribed by legislation in Criminal Justice and Licensing (Scotland) Act 2010 Sections 77 to 82 which amends sections 18 and 19 of the Criminal Justice and Licensing Act 1995 (as amended 2007).

*\*\* Applying the principles laid out in forthcoming legislation in “Children’s Hearings act 2012 and amendments to ROA”*

## **6. Bail**

- 6.1 Historical records of bail granted and bail conditions are retained for 6 Months from end of bail order.

## **7. Temporary Retentions**

- 7.1 Data regarding cases dealt with by a disposal resulting in a temporary retention is weeded after 6 months unless it is data generated in 5.2).

## **8. Cases not progressed**

- 8.1 Cases which are recorded but not dealt with within 3 years are deleted. This deletion is subject to rigorous reporting and checking schedules to ensure cases are properly managed rather than automatically deleted in error.