

# **WILTSHIRE POLICE FORCE PROCEDURE**



## **Forensic Custody Sampling & Sampling following Invite Interviews**

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## PROCEDURE

### PROCEDURE OVERVIEW

Maximising the potential to recover Forensic samples, Fingerprints, DNA, Photographs and Shoe Prints, from persons detained in Police Custody and those invited to a Police Station in connection with investigations into Recordable Offences

### GLOSSARY OF TERMS

Term	Meaning
CJA	Criminal Justice Act 2003
CJPA	Criminal Justice and Police Act 2003
DNA	Deoxyribonucleic acid
NAFIS	National Automated Fingerprint Identification System
PACE	Police and Criminal Evidence Act
PYO	Persistent Young Offender
PPO	Persistent Priority Offender
SOCA	Serious Organised Crime and Police Act 2005

### RELATED POLICIES, PROCEDURES and OTHER DOCUMENTS

[Retention of Biometrics Procedure](#)  
[Force Records Retention Schedule](#)  
[Records Deletion and Amendment Policy](#)  
[Custody Images Process and Guidance](#)

### AUTHORISED PROFESSIONAL PRACTICE AREAS ASSOCIATED WITH THIS PROCEDURE

[Information Management](#)

### DATA PROTECTION

Any information relating to an identified or identifiable living individual recorded as a consequence of this procedure will be processed in accordance with the Data Protection Act 2018, General Data Protection Regulations and the [Force Data Protection Policy](#).

### FREEDOM OF INFORMATION ACT 2000

This has been assessed as suitable for public release.

### MONITORING and REVIEW

This procedure will be reviewed every three years in the light of any changes to law or Force or at such other times as may become necessary.

### WHO TO CONTACT ABOUT THIS PROCEDURE

The Head of Crime Standards and Justice is responsible for this procedure. All queries relating to this procedure should be directed to the Head of Crime Standards and Justice or the Force Policy Officer.

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## DEALING WITH VULNERABLE PERSONS AND CHILDREN AS SUSPECTS

In all situations where vulnerable people and children come to the attention of the police a full understanding of their circumstances should be sought. This may not affect the way we utilise the criminal justice system but should open our eyes to alternative avenues for addressing their behaviour.

It is essential that for the vulnerable, including children, enforcement is considered appropriately and only used where necessary to prevent others from becoming victims. It is particularly important that vulnerable people are not unnecessarily criminalised for behaviour which can be dealt with by more appropriate means. Getting it wrong, especially when it results in the unnecessary criminalisation of the vulnerable, can mean heavy costs to the individual as well as considerable ongoing costs to the wider society.

Policing policies, processes and interactions with the vulnerable can have a significant impact on their lives, both in the short and long term. How we as the police interact with the vulnerable will affect the relationship we have with them and also the effectiveness in reducing policing demand in the future by preventing them from becoming victims and offenders. We must have the ability and confidence to look beyond the crime itself as for some vulnerable people who offend, enforcement may be the most effective tool, but for many others it can be a blunt instrument.

Please refer to Wiltshire Police [Vulnerability Strategy](#) for further information:

### 1. FINGERPRINTS

The only method of proving previous convictions is by taking fingerprints from all persons Arrested, Warned, Cautioned, and Reprimanded and also those persons invited to a Police Station in connection to recordable Offences.

All police Forces have an obligation to maintain and populate the National Fingerprint Database, which is the cornerstone of the National Criminal Justice System.

Fingerprints can be recovered from all persons aged 10 years or more.

#### 1.1 Taking Finger and Palm Prints, Persons Arrested/Detained/Invited

Legislation has given Police the power to take and retain finger and palm prints:

Section 61 PACE 1984, Amended by CJA 2003 Section 9:

- Power to take fingerprints without consent from a person arrested and detained in a Police Station;
- Provided a set has not already been taken in the investigation

Section 9 CJA 2001 states:

- A second set can be taken if the original was not complete or is of poor quality

Detainees must also be made aware the fingerprints may be subject of a speculative search.

Persons invited into a Police Station must give fingerprints voluntarily and consent must be obtained in writing.

As many sets of finger and palm prints can be taken as required from a detainee at any one time.

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## 1.2 Taking Finger and Palm Prints after Conviction

Legislation has given Police the power to take and retain finger and palm prints:

Section 27 PACE states:

(1) If a person -

- Has been convicted of a recordable offence;
- Has not at any time been in police detention for the offence; and
- Has not had his/her fingerprints taken -
  - (i) In the course of the investigation of the offence by the police; or
  - (ii) Since the conviction,

Any constable may at any time not later than one month after the date of the conviction require him/her to attend a police station in order that his/her fingerprints may be taken.

(2) A requirement under subsection (1) above -

- (a) Shall give the person a period of at least 7 days within which he must so attend; and
- (b) May direct him/her to so attend at a specified time of day or between specified times of day.

(3) Any constable may arrest without warrant a person who has failed to comply with a requirement under subsection (1) above.

## 1.3 Retention and deletion of Fingerprints and Palmprints of Arrested/Attendees

There are varying retention periods applicable – please refer to the Force Records Retention Schedule for full details

If no further action is taken with regard to the matter for which the person has been arrested/invited, fingerprints are deleted automatically.

In all other cases, persons may request the destruction of samples by writing to **The ACRO Criminal Records Office**.

A new regime governing the retention of fingerprints and DNA was introduced by the [Protection of Freedoms Act 2012 \(PoFA\)](#) and was brought into force on 31 October 2013.

Prior to its commencement the police were able to retain indefinitely the fingerprints & DNA taken from persons arrested for recordable offences, irrespective of whether they were charged or convicted.

Under PoFA, if a person who has been arrested and is not charged with an offence and has no previous convictions, their fingerprints and DNA profile will in most cases be deleted from the national databases. In some cases, however, Wiltshire police can apply to the Biometrics Commissioner for permission to keep that material.

Under S63G of PACE, Wiltshire police may make an application to keep fingerprints and/or a DNA profile when a person without previous convictions has been arrested for, but not charged with, a qualifying offence. They may do so if:

- the victim of that alleged offence was under 18, vulnerable or associated with the person arrested; and/or
- the police consider that it is necessary to keep the material to assist in the prevention or detection of crime.

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If Wiltshire police make an application to the Biometrics Commissioner, and that application is successful, the fingerprints and/or DNA profile can be kept for 3 years. That 3 year period will usually run from the date that the person was arrested.

- If the police's application to the Biometrics Commissioner is unsuccessful, the fingerprint/DNA records should be deleted from the databases within 28 days of the Commissioner's decision.

## **1.4 Speculative Searches**

Legislation has given Police the power to undertake speculative searches:

PACE Section 63A, as amended by CJPA 2001, Section 61(7) a and 63(8) b

- Speculative searches can be made across a wide range of databases kept by various law enforcement agencies internationally not just UK Police Forces.

## **1.5 Livescan**

The Livescan terminals based at Melksham and Swindon can only be used by officers who have received appropriate training. The system will automatically undertake the following transactions:

### ➤ Tenprint Transmission

The images will be transmitted, together with the associated textural data, to the NAFIS Bureau at Devizes where a hard copy will be printed. No hard copies are available to the processing officer. These copies will be retained within the Fingerprint Unit in line with Home Office Weeding/Retention rules.

### ➤ Live ID

The fingerprint images from three digits, right thumb and both forefingers are transmitted directly from the terminal to Hendon Central Site where a search will be automatically undertaken against the database. The only limiting parameter will be the designated gender of the detainee.

The results will be transmitted back to the originating terminal, with the following information:

- CRO Number, maximum of three, if a match has been made
- A Confidence of 'High', 'Medium', or 'Low'
- No Trace, if no match has been made

### **The results of Live ID checks must be viewed.**

The Officer will, in the event of a match being returned, need to undertake a PNC check against the NASCH check to compare the recorded demographic data against the detainee in custody. The importance of knowing the correct identity cannot be overstated as if detainees give false details 'WARNINGS' Signals may be missed with the associated Health and Safety risks, as can 'WANTED' Signals.

## **1.6 Fingerprints Taken at Non-Livescan Police Stations and following invite interviews**

Finger and palm prints of all persons invited to the smaller Police Stations should always be recorded using the 'Ink and Paper' which is provided at non-Livescan Stations.

Care should always be taken to ensure clear impressions are recorded:

- The donor's hands should be clean and dry
- The Ink should not be too thickly applied to the block
- If any fingers are smudged several sets can be taken to achieve a good result

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- Sweaty hands will give smudged prints, so be prepared to wipe individual digits if necessary
- Use the National Form NAFIS 1A(L), available from Stores Department Devices Headquarters
- Ensure all text data is recorded accurately
- Forward the completed form to Custody Sampling Team A&S Portishead via Devices Headquarters.

When taking fingerprints following an invite interview at a police station, the fingerprints will need to be placed in a seal exhibits bag and a continuity sheet attached and filled in. This will then be sent/collected by the Divisional driver to take to the Custody Sampling Team A&S Portishead via Devices HQ. Local procedures will need to be followed regarding collection/submission to Devices HQ.

## **1.7 Recording of Footprints**

In unusual circumstances sole of foot prints may be required and are treated as 'Non-Intimate Samples' and covered by the same legislation as fingerprints; Section 63 PACE; part V of the act, details the Police powers.

## **1.8 Taking Fingerprints in Connection with Immigration Enquiries**

A person's fingerprints should be taken for the purposes of Immigration Service enquiries in accordance with powers and procedures other than under PACE and for which the Immigration Service (not the police) are responsible.

Powers to take fingerprints for these purposes without consent are given to police and immigration officers under various sections of:

- [Immigration Act 1971](#)
- [Immigration and Asylum Act 1999, section 141\(7\)](#)

Reasonable force may be used, if necessary, to take a person's fingerprints without their consent. A Phoenix Source Document should always be completed in every case.

## **2. DNA Criminal Justice Samples**

DNA Samples can be recovered from all persons aged 10 years or more.

### **2.1 Taking DNA samples, Persons Arrested/Detained/Invited**

Legislation has given Police the power to take and retain DNA samples:

Section 61 PACE 1984, amended by CJA 2003 Section 9

- Power to take DNA samples without consent from a person arrested and detained in a Police Station;
- Provided a DNA sample has not already been taken in the investigation.

Detainees must also be made aware the samples may be subject of a speculative search.

Persons invited into a Police Station must give samples voluntarily and consent must be obtained in writing.

### **2.2 When is a DNA Sample Required?**

A DNA sample should be recovered in the following circumstances:

- If the person has no previous criminal history recorded on PNC
- If a criminal record is held on PNC only recover a sample if:



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- a. There are no DNA Sample details on the 'DN' page
  - b. There is a sample taken with a barcode that begins with a number lower than '96'
  - c. The sample is required for Evidential Case Work, where DNA has been recovered from a crime scene and a direct comparison is required against the detained person.

## 2.3 Taking DNA Samples After Conviction

Legislation has given Police the power to take and retain DNA samples:

Section 27 - (1) If a person -

- Has been convicted of a recordable offence;
- Has not at any time been in police detention for the offence; and
- Has not had their DNA taken -
  - (i) In the course of the investigation of the offence by the police; or
  - (ii) Since the conviction,

Any constable may at any time not later than one month after the date of the conviction require him/her to attend a police station in order that his/her DNA may be taken.

A requirement under subsection (1) above -

- (a) Shall give the person a period of at least 7 days within which he must so attend; and
- (b) May direct him/her to so attend at a specified time of day or between specified times of day.

Any constable may arrest without warrant a person who has failed to comply with a requirement under subsection (1) above.

## 2.4 Retention and Deletion of DNA Samples

There are varying retention periods applicable – please refer to the [Force Records Retention Schedule](#) for full details.

If no further action is taken with regards to the matter for which the person has been arrested/invited, DNA is deleted automatically.

In all other cases, persons may request the destruction of samples by writing to the **ACRO Criminal Records Office**.

Under S63G of PACE, Wiltshire police may make an application to keep fingerprints and/or a DNA profile when a person without previous convictions has been arrested for, but not charged with, a qualifying offence. They may do so if:

- the victim of that alleged offence was under 18, vulnerable or associated with the person arrested; and/or
- the police consider that it is necessary to keep the material to assist in the
- prevention or detection of crime.

If Wiltshire police make an application to the Biometrics Commissioner, and that application is successful, the fingerprints and/or DNA profile can be kept for 3 years. That 3 year period will usually run from the date that the person was arrested.

- If the police's application to the Biometrics Commissioner is unsuccessful, the fingerprint/DNA records should be deleted from the databases within 28 days of the Commissioner's decision.

For details on making applications to the Biometrics Commissioner see Retention of Biometrics Procedure.

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## 2.5 Speculative Searches

Legislation has given Police the power to undertake speculative searches:

PACE Section 63A, as amended by CIPA 2001, Section 61(7) a and 63(8) b

- Speculative searches can be made across a wide range of databases kept by various law enforcement agencies internationally not just UK Police Forces.

## 2.6 Taking DNA Samples in Connection with Immigration Enquiries

A person's DNA Sample should be taken for the purposes of Immigration Service enquiries in accordance with powers and procedures other than under PACE and for which the Immigration Service (not the police) are responsible.

Powers to take DNA for these purposes without consent are given to police and immigration officers under various sections of:

- [Immigration Act 1971](#)
- [Immigration and Asylum Act 1999, section 141\(7\)](#)

Reasonable force may be used, if necessary, to take a person's DNA without their consent.

A Phoenix Source Document should always be completed in every case.

## 2.7 Taking DNA Samples at Non – Custody Police Stations following invite interview

DNA samples of all persons invited to the smaller Police Stations should still be obtained in the same way as when taking DNA samples in custody.

Once a DNA sample has been taken and the correct documentation has been completed, place the bag containing the sample and paperwork into an exhibits bag. You must complete a continuity sheet and attach it to the evidence bag containing the sample. The sample will then need to be stored in the freezer. Local procedures to then be followed, informing the Divisional Driver that the sample is in the freezer so that arrangements can be made for them to collect them and transport them to The Custody Sampling Team A&S Portishead via Devizes HQ.

## 3. PHOTOGRAPHS

Legislation has given Police the power to take and retain photographs.

PACE, Section 64A, provides powers to take photographs of suspects and allows these photographs to be used or disclosed only for purposes related to the prevention or detection of crime, the investigation of offences or the conduct of prosecutions by, or on behalf of, police or other law enforcement and prosecuting authorities inside and outside the United Kingdom or the enforcement of a sentence. After being so used or disclosed, they may be retained but can only be used or disclosed for the same purposes.

Sec 64A PACE Act 1984 allows photographs of a person, using force if necessary, *if detained at a police station having been arrested by a constable or other person for an offence.*

**Photographs should be taken from all persons:**

- Charged with, or informed they may be prosecuted for, a recordable offence
- Prosecuted for a recordable offence
- Cautioned for a recordable offence or given a warning or reprimand in accordance with the Crime and Disorder Act 1998 for a recordable offence; or
- Gives informed consent, in writing, for the photograph or images to be retained for purposes described above.

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### **3.1 Retention of Photographs**

Photographs, taken legally for a Recordable Offence, are retained and managed in line with MoPI and the Authorised Professional Practice (APP) Information Management.

An individual has the ability to apply to Chief Officers to request deletion of their custody image. See the [Records Deletion and Amendment Policy](#) and [Custody Images Process and Guidance](#).

### **3.2 Speculative Searches**

Legislation has given Police the power to undertake speculative searches:

PACE Section 63A, as amended by CIPA 2001, Section 61(7) a and 63(8) b

- Speculative searches can be made across a wide range of databases kept by various law enforcement agencies internationally not just UK Police Forces.

### **3.3 Taking Photographs at Non-Custody Police Stations following invite interview**

When taking photographs at smaller Police Stations following invite interview, officers are to use their police personal issued iPhone or a digital camera. The photograph should include the persons full head and shoulders and be taken with a plain background. It is recommended that you are approximately 6ft away from the person when taking the photograph as if you are stood too close it will cause distortion of the face to the extent that they could be unrecognisable to others.

Once the photograph has been taken, the image will need to be uploaded onto niche following the force guidance of 'Adding your process photos to Niche RMS.

[http://firstpoint/deptinfo/corpdev/progoff/mos/hermes/hermes\\_P\\_docs/00%20Adding%20your%20non-custody%20Process%20pics.pdf](http://firstpoint/deptinfo/corpdev/progoff/mos/hermes/hermes_P_docs/00%20Adding%20your%20non-custody%20Process%20pics.pdf)

## **4. SHOE PRINTS / FOOTWEAR**

### **4.1 Taking Shoeprints/Footwear impressions in connection with a criminal investigation**

Legislation has given Police the power to take and retain Footwear samples:

PACE 61A and SOCA 2005 Section 118 Impressions of footwear

Subsection (2) of this section inserts a new section 61A into PACE. The section will allow the police to take an impression of a person's footwear with or without consent.

Detainees must also be made aware the shoeprints may be subject of a speculative search

An impression may only be taken without consent where a person has been:

- Charged with, or informed they may be prosecuted for, a recordable offence
- Prosecuted for a recordable offence
- Cautioned for a recordable offence or given a warning or reprimand in accordance with the Crime and Disorder Act 1998 for a recordable offence

Shoeprints can be recovered, with permission, from any suspect.

PACE, section 61A, provides power for a police officer to take footwear impressions without consent from any person over the age of ten years who is detained at a police station.

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## **4.2 Retention of Shoeprints/Footwear**

Shoeprints, taken legally for a Recordable Offence, are retained for minimum of six months and a maximum of twelve months.

The value of shoeprints diminishes with age as the wear patterns change with time.

### ***When is a Shoeprints/Footwear Sample Required?***

Shoeprints should be recovered from the following:

- Criminal Damage
- Auto Crime
- Drugs
- Burglary
- Robbery
- Serious/Major Crime
- Persons arrested for other crime but with convictions for the above
- PPOs
- PYOs
- Target Criminals
- Repeat Offenders
- Op LIBERAL, rogue traders.

Where possible it is always considered best practice to seize the physical footwear at the time, as for any further forensic comparison the physical item will be needed. If not seized at the time but seized at a late date the comparison could be different due to the fact the value of the shoeprint diminishes with age as the wear pattern will change.

## **4.3 Recording Shoeprints/Footwear**

Shoeprints should be recorded using the Print Kits provided in Custody. These samples are collated within custody and sent onto the Custody Sampling Team in A&S Portishead via Devizes Headquarters on routine courier runs.

## **4.4 Shoeprints/Footwear Which Should Not be Recorded**

Forensic analysis of footwear relies on wear patterns so certain types of shoe will be of little or no use:

- Stiletto shoes
- 'Flip Flops'
- Carpet slippers
- Plain soled shoes.

## **4.5 Speculative Searches**

PACE 61A and SOCA 2005 Section 118 Subsections (3) and (4) make a number of consequential amendments to sections 63A and 64 of PACE to allow footwear impressions to be retained and searched against the National Footwear Reference Collection and speculatively searched against the Mark Intelligence Index.

## **4.6 Taking footwear impressions at Non-Custody Police Station following invite interview**

When taking footwear impressions following invite interviews at Non-Custody Police Stations, the Print Kits are to be used. Once the impressions have been obtained, they will need to be placed into a plastic exhibits bag, sealed and a continuity sheet must be completed and stapled to the front and outside of the bag. Local procedures are then to be followed regarding the Divisional Driver collecting them and the impressions being sent to The Custody Sampling Team at A&S Portishead via Devizes HQ.

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## **5. COMPLETING FORM 7's FOLLOWING INVITE INTERVIEW**

All officers and staff are responsible for completing the process of obtaining an AS Number in Niche RMS (old form 7) following an invite interview of a person. This is to be completed on the same day as the interview has taken place.

Force guidance should be followed in completing this process.

[http://firstpoint/deptinfo/corpdev/progoff/mos/hermes/hermes\\_P\\_docs/00%20Adding%20your%20non-custody%20Process%20pics.pdf](http://firstpoint/deptinfo/corpdev/progoff/mos/hermes/hermes_P_docs/00%20Adding%20your%20non-custody%20Process%20pics.pdf)

## DOCUMENT ADMINISTRATION

### Ownership:

Department Responsible: Crime Standards and Justice  
Procedure Owner/Author: Supt Crime Standards and Justice / T/Inspector Tina OSBORN  
Technical Author:  
Senior Officer/Manager Sponsor: ACC Crime and Justice

### Revision History:

Revision Date	Version	Summary of Changes
06.11.2017	2.0	Draft v1.4 published as substantive version 2.0
25.05.2018	2.0	Data Protection section amended to reflect implementation of GDPR and new DPA.
16.10.2018	2.0	Links added to the Records Deletion and Amendment Policy and Custody Images Process and Guidance.

### Approvals:

This document requires the following approvals:

Name & Title	Date of Approval	Version
Continuous Improvement Team	06.11.2017	1.4
Supt. Crime Standards and Justice	03.11.2017	1.4
JNCC (Not required for all procedures)	N/A	

### Distribution:

This document has been distributed via:

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Other: <i>(state method here)</i>		

### Diversity Impact Assessment:

Has a DIA been completed? If no, please indicate the date by which it will be completed. If yes, please send a copy of the DIA with the procedure.	<input type="checkbox"/> Yes <input type="checkbox"/> No Date:
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### Consultation:

List below who you have consulted with on this procedure (incl. committees, groups, etc):

Name & Title	Date Consulted	Version
Superintendents' Craig HOLDEN and Sue AUSTIN	21.09.2017	1.1
Leonie CALLAND (Senior Records Management Decision Maker)	21.09.2017	1.1
Colin DAVIES (PNC Bureau)	21.09.2017	1.1
Phillip WEBSTER (CSI)	21.09.2017	1.1
Sgt. Lian DUNMWELL (Strategic Support Officer)	21.09.2017	1.1

### Implications of the Procedure:

#### Training Requirements

No additional training requirements required.

#### IT Infrastructure

No additional IT infrastructure required.