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22/08/2023

**FREEDOM OF INFORMATION REQUEST REFERENCE NUMBER: 238/2023**

Thank you for your request for information regarding ACRO Certificates; which has now been considered.

**Applicant Question:**

1. Will the fact that an individual is currently subject to a police investigation / pending prosecution be disclosed routinely on an ACRO Police Certificate?
2. What is the statutory (or legal) basis for the Step-Down Model?
3. What is the legal justification for retaining arrest records resulting in No Further Action on the PNC in light of the fact that PACE s 27(4) gives the Secretary of State the power to record only convictions in the national police records?
4. What is the legal justification for the "No Live Trace" ACRO Police Certificate i.e. upon what grounds are the word "Live" inserted into an ACRO Police Certificate which is issued where the subject has old matters "stepped down" from the certificate?
5. What does it mean for a minor conviction to be "unresulted" on PNC? What happens to minor convictions which are "unresulted" on PNC?
6. How can foreign convictions make their way onto a subject's PNC record? Are there any guidelines in force that govern this process?
7. Which countries does the UK have criminal records information sharing agreements with?
8. How are Community Resolutions recorded on PNC?
9. Does "cancellation" of a crime by the police pursuant to the Crime Recording Rules lead to the deletion of the event from PNC?

**NPCC Response:**

1. The NPCC does hold information captured by part 1 of your request. Impending prosecutions are not stepped down, but once the outcome has been recorded step-down will be applied. An 'under investigation' is when a subject has been summonsed or arrested, but the disposal (charge, no further action etc) has yet to be determined. Under investigations are not stepped down, but once the outcome has been recorded step-down will be applied.

This is outlined in the attached ACRO guidance 'Step-down Model' – filtering of offences for Certificates of convictions.

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## Step-down

In 2006, the police introduced a process for filtering out information before it appeared on a criminal records check. A person could apply to the police to have information 'stepped down' from their standard or enhanced check. This was typically in relation to offences that were very old and very minor. The decision was at the discretion of the Chief Constable of each local force.

2. The NPCC does hold information captured by part 2 of your request. The concept of the step-down model is to ensure that the disclosure of criminal conviction data from PNC is proportionate and necessary for the intended purpose, in compliance with Data Protection legislation, whilst allowing the police continued access in support of operational policing.
3. The NPCC does hold information captured by your request. The justification is covered under Court of Appeal ruling on 19<sup>th</sup> October 2009 regarding the justification of retention.
4. The NPCC does hold information captured by part 4 of your request. The concept of the step-down model is to ensure that the disclosure of criminal conviction data from PNC is proportionate and necessary for the intended purpose, in compliance with Data Protection legislation, whilst allowing the police continued access in support of operational policing

No Live Trace indicates that there is stepped down information. When offences are stepped down this does not mean that they are removed from the PNC. Meaning that disclosure could take place through other means outside of the ACRO certificate process.

5. The NPCC does not hold information captured by part 5 of your request. The NPCC does not hold a record which explains the meaning for a minor conviction to be 'un-resulted' on PNC, or what happens to minor convictions which are 'un-resulted' on PNC. Outside of the Act, in wishing to assist you, colleagues have provided that PNC have recordable and non-recordable offences. Non-recordable offences may be applied to PNC along with a recordable offence if charged at the same time but not as a stand-alone charge. If a case is un-resulted then it will be impending. There is no result code on PNC of 'un-resulted'.
6. The NPCC does hold information captured by part 6 of your request. Convictions for **UK nationals** can be added to PNC as a result of a notification received from a convicting country. In relation to the EU there is an obligation within the Trade and Cooperation Agreement for criminal offences to be notified, this is not necessarily the case with Non EU countries.

Convictions for **foreign nationals** can be added to PNC as a result of a request out to their country of nationality when they come to notice in the UK. The addition of offences will be carried out under certain rules for retention, which in relation to the EU is if they meet the 'serious and immediate threat test'. The Home Office Serious Offence List is used as part of the assessment process. These offences will be subject to periodic review as to whether they can be retained.

The Trade and Cooperation Agreement is a public facing document and can be accessed [here](#).

7. The NPCC does hold information captured by part 7 of your request. All EU countries are exchanged with under the [Trade and Cooperation Agreement](#). Signed Memorandums of Understanding are in place for Albania and Jamaica.
8. The NPCC does not hold information captured by your request. Based on knowledge provided by ACRO, Community Resolutions are not recorded on PNC. They are recorded on local force systems.
9. The NPCC does not hold information captured by your request.

In wishing to assist you, outside of the Act, I can provide that information on cancellations can be found in [Home Office guidance](#), but, in respect of whether a cancelled crime leads to deletion from PNC, this would be a question for forces and their local policies and procedures for such scenarios.

**Sherry Traquair**

NPCC Freedom of Information Officer & Decision Maker

[www.npcc.police.uk](http://www.npcc.police.uk)

**COMPLAINT RIGHTS**

Internal Review

If you are dissatisfied with the response you have been provided with, in compliance with the Freedom of Information legislation, you can lodge a complaint with NPCC to have the decision reviewed within 20 working days of the date of this response. The handling of your request will be looked at by someone independent of the original decision, and a fresh response provided.

It would be helpful, if requesting a review, for you to articulate in detail the reasons you are not satisfied with this reply.

If you would like to request a review, please write or send an email to NPCC Freedom of Information, c/o PO Box 481, Fareham, Hampshire, PO14 9FS.

If, after lodging a complaint with NPCC, you are still unhappy with the outcome, you may make an application to the Information Commissioner at the Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

## **Annex A**

Section 17 of the Freedom of Information Act 2000 requires the NPCC, when refusing to provide information by way of exemption in question and (c) states why the exemption applies. In accordance with the Freedom of Information Act 2000 this letter acts as a refusal notice to those aspects of your request.

### **Legislation – Section 16**

- (1) It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it.