

Procedure



Supply of Information to Outside Parties			
DCP-Pr-005 (formerly D123)			
Version	1.1	Host Force	Devon & Cornwall Police
Effective Date	23/03/2021	Host Policy Unit	Devon & Cornwall Police Policy Unit
Version Date	12/07/2022	Policy Owner	Head of Alliance Information Management
Review Date	23/03/2024	Policy Author	Alliance Data Protection and Information Sharing Manager
Associated Policies	DCP-P-004 Supply of Information to Outside Parties Policy		

1. Procedure Summary

This Procedure (and its associated Policy) is intended for Devon & Cornwall Police (DCP) employees/volunteers as well as members of its community. This Procedure (and its associated Policy) is designed to provide clarity over what information can be requested and which area of the Force would be the most appropriate Unit to deal with these types of information requests. This Procedure (and its associated Policy) have been designed to improve transparency between and Force and the community and provide reassurance as to what information may or may not be disclosed.

2. Contents List

[Procedure](#)

[Disclosure of offender's personal details](#)

[Request by defence to interview police officers in criminal proceedings](#)

[Requests for police officers to give evidence for defence in criminal proceedings](#)

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[Request to interview police officers or members of police staff in civil proceedings](#)

[Police officers or police staff giving evidence in civil proceedings](#)

[Police officers or police staff requested to give character references in criminal or civil proceedings](#)

[Court production orders from civil courts](#)

[Police officers witnessing incidents off duty](#)

[Police officers as witnesses at statutory tribunals](#)

[Information to Insurance Companies](#)

[Civil action arising from road collisions](#)

[Information to registration authority regarding crimes committed in nursing and residential homes](#)

[Common Law Police Disclosure \(CLPD\) to employers or a regulatory body](#)

[Disclosure of Police National Computer \(PNC\) stolen vehicle information \(to the public by the police\)](#)

[Disclosure of Force Policy](#)

[Monitoring and review](#)

[Associated documents](#)

[Document History](#)

[Version History](#)

3. Procedure

3.1 Disclosure of offender's personal details

3.1.1 Information from police records regarding offenders may be disclosed on occasions in compliance with Policy DCP-P-002 - Reports on Character and Convictions (and its associated procedure).

3.1.2 Where requested, personal details of convicted, cautioned and officially warned offenders (including restorative justice disposals) may be released to their victims to pursue remedies to seek legal redress in a civil action. This is subject to a proportionality test and a risk assessment as to potential misuse of the information. This will normally be name and contact address. Date of birth would not be given unless specifically required for instigation of legal proceedings.

3.1.3 Where the offender is a juvenile the information should only be released at the discretion of an officer of at least Inspector rank and preferably only to the victim's legal representatives.

3.2 Request by defence to interview police officers in criminal proceedings

3.2.1 An Inspector, having consulted with the Legal Services, may allow the defence to interview a police officer to take proof of evidence provided that:

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- a) Criminal proceedings have been instituted against the person seeking the interview or on whose behalf the interview is sought; and
- b) The officer with whom the interview was sought is not being called to give evidence for the prosecution in those proceedings; and
- c) A valid reason for seeking the interview is given (e.g. an indication of the matter to which it is believed the officer might be able to testify); and
- d) An officer's line manager should be notified of any defence request to interview a serving police officer or employee who did not provide a written statement of evidence, to enable the prosecuting authority to be alerted.

3.2.2 Defence requests to interview police officers who have already provided a prosecution written statement (that has been served upon the defence) should be referred to the CPS.

3.2.3 When authority has been given for an interview, a substantive Sergeant must be present to ensure that the interview does not go beyond proper bounds and if there are likely to be any complicated issues an officer of at least inspector rank should attend. Matters to be included in the proof of evidence will be limited to what is factual and within the knowledge of the officer being interviewed. Expressions of opinion will be excluded

3.2.4 Should the defence and the officer not wish another officer to be present, this must be respected. A duty report will be required and such interviews will not be conducted in police time or on police premises. Any request for a statement, even if it is for mitigation purposes only, must be referred to a senior officer by way of a duty report indicating that an interview with the defence has been given and a statement provided with respect to character only.

3.2.5 If an officer is aware that they are providing material to the defence which may affect an on-going prosecution, or even provide a complete defence, then it would be their duty to make such information available to the officer in the case (OIC) by means of duty report. The duty report should include details of the evidence that can be provided, or a copy of the statement.

3.2.6 The CPS and/or OIC should then be notified prior to any interview so that consideration can be given to any appropriate action.

3.2.7 Where the proceedings are also relevant to a complaint against police, defence requests will be referred to the Alliance Professional Standards Department (PSD) on behalf of the Deputy Chief Constable.

3.2.8 Unless the interview is recorded in duplicate by the interviewer and a copy supplied to the police at the time, the officer who has been interviewed will not sign the proof of evidence at this stage. If the interviewer does provide a duplicate copy at the end of the interview, the officer will read it through carefully, ensuring its accuracy and that any necessary amendments are

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recorded and initialled on both copies. The officer will then sign both copies and a supervising senior officer will also sign as having witnessed the signature.

3.2.9 Requests for a police officer to swear an affidavit should normally be refused. In case of doubt refer to the Legal Services.

3.3 Requests for police officers to give evidence for defence in criminal proceedings

3.3.1 Requests for police officers to attend court to give evidence for the defence in criminal proceedings, whether or not a proof of evidence has been taken from the officer by the defence, will be referred to Assistant Chief Constable (Crime and Justice) for directions. The exceptions to that general rule will be:

- a) When the officer is not being called by the prosecution and the request is accompanied by a witness summons issued by the courts together with conduct money.
- b) Minor cases of common assault, disputes between neighbours and the like, when a BCU Commander may authorise an officer who has knowledge of the case to give evidence if called upon to do so by the court.
- c) Any case where a complaint against police has resulted from the incident subject to the proceedings, when all requests will be referred to the Deputy Chief Constable.
- d) Cases where the Legal Services requires police officers or support staff to give evidence or produce original exhibits in any action prosecuted or defended by the Force.

3.4 Request to interview police officers or members of police staff in civil proceedings

3.4.1 Where information is supplied at the request of a party contemplating civil proceedings, there will be a presumption that it will be provided if it is in the interests of justice to do so on the understanding that the information is similarly available to any other party or body with a legitimate interest.

3.4.2 An Inspector, following consultation with Legal Services, may authorise interviews with police officers or members of police staff for the purposes of taking a proof of evidence for use in civil proceedings when:

- a) Payment of a fee has been made; and
- b) A certificate by a solicitor that appearance has been entered in a civil action has been received; or
- c) Notice of defence has been delivered; or
- d) A subpoena has been served; or
- e) Other satisfactory documentary evidence of the initiation of civil proceedings has been received; or

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- f) Satisfactory representations have been made by an individual, company or legal representative to the effect that an interview is required to assist in the initiation, avoidance or resolution of proposed civil proceedings.
- 3.4.3 Such an interview will be allowed only on condition that a copy of the proof will be supplied to the police and that the Chief Constable retains the discretion to allow other enquirers access to all details of the incident to the same extent as an original enquirer.
- 3.4.4 Where a solicitor or legal executive has been appointed on behalf of an officer in pursuance of civil proceedings against the Chief Constable, no fee will be charged for interviews conducted with other officers who may be potential witnesses. Proof that civil proceedings have been instituted will be required.
- 3.4.5 Where requests are received for statements from police officers that have already been made for other purposes, consideration will be given to releasing such statements at the normal charge subject to the approval of an officer of the rank of Inspector or above
- 3.4.6 Where a fresh statement is required by a third party for use in any proceeding, a request will be submitted to an officer of the rank of Inspector or above indicating the issues involved. The statement shall be released after the third party has conducted an interview with the officer and the statement has been checked. The requirements set out at paragraph 3.5.2 must also be satisfied.
- 3.4.7 In all cases, the statement must be authorised by an officer of the rank of Inspector or above.

3.5 Police officers or police staff giving evidence in civil proceedings

- 3.5.1 Unless specifically authorised by an Assistant Chief Constable (or Commander as appropriate) an officer or a member of police staff will not attend to give evidence in civil proceedings on any matter arising from police duties until service of a subpoena, witness summons or other statutory requirement to attend, together with conduct money (pre-paid travel expenses) or witness allowance have been affected.
- 3.5.2 Police officers and police staff will be charged in accordance with the Fees and Charges Handbook at a rate equivalent to full cost recovery plus additional expenses including travel, meals and accommodation as appropriate.

3.6 Police officers or police staff requested to give character references in criminal or civil proceedings

- 3.6.1 There may be occasions where an officer or member of staff is approached in order to give a character reference to support an officer going through criminal or civil proceedings. In the interests of the passage of justice and the right to a fair trial officers and staff should be afforded the opportunity to give those references should they wish to do so, without unfair or undue influence from

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any party. The Force should be made aware of those intending to provide a character reference, as to ensure that those references provide a personal point of view rather than a Force stance.

- Any reference should be provided in a personal capacity only, not as a representative of Devon and Cornwall Police. This must be made clear in the reference. Mention can be made to the referee's employment insofar as naming their employer, but that is so far as it should extend.
- Any reference made should be based solely on fact and first-hand experience, not opinion, conjecture or supposition.
- Any reference should be pertinent to the subjects character and not evidential to the case or hearing in question.
- Force headed paper should not be used for this purpose

3.6.2 If the officer or member of staff agrees to give a character reference for use in proceedings, they should inform their line management that they intend to do so, so that the Force can provide appropriate support if required. Officers considering providing character references can seek additional advice if they so wish from the Police Federation. Police staff considering references can seek additional advice from their staff association.

3.6.3 Officers or members of staff giving a reference to the defence should be aware that there are two scenarios in which the reference can be used in court:

- a) The prosecution can accept that the reference can simply be read on behalf of the defence;
- b) If the prosecution don't agree that the reference can simply be read, then the individual who provided the reference may be requested to attend court to give evidence. If this request is made via a summons the individual must attend, and in this instance the procedure within 3.3.1 of this policy should be followed and the matter referred to the ACC via the individuals supervisor.

3.7 Court production orders from civil courts

3.7.1 The Force has a charging regime for the processing and providing of information requested by third parties by way of a Court Production Order.

3.7.2 The processing of Court Production Orders within Devon & Cornwall Police is administered by the Alliance Disclosure Team (ADT) based at Devonport;

Alliance Disclosure Team
Devonport Police Office
Fore Street
Devonport
Plymouth

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Devon PL1 4DW

- 3.7.3 Any individual within the Force may receive a Court Production Order, the Alliance Disclosure Team at Devonport should be the first point of contact. The Court Production Order must be sent by secure e-mail to the Disclosure Unit Plymouth
- 3.7.4 The Force charging regime will be administered and the request will either be processed by the Alliance Disclosure Team, or allocated to the appropriate specialist department, as necessary.

3.8 Police officers witnessing incidents off duty

- 3.8.1 Where Police Officers, Special Constables or Police Community Support Officers witness incidents or road collisions while off duty (whether or not they have made an official statement of evidence) they may respond to requests from solicitors or insurance companies to supply a written statement/complete a questionnaire.
- 3.8.2 Officers will be regarded as acting in a private capacity and any subsequent appearance in court shall be in their own time and at their own expense.
- 3.8.3 In these circumstances, attendance at court, must be reported through the relevant Commander or Head of Department outlining the circumstances.

3.9 Police officers as witnesses at statutory tribunals

- 3.9.1 Requests for police officers to appear and give evidence before statutory tribunals on matters arising from their duty as police officers will be made by the Deputy Chief Constable and referred to the relevant Commander.
- 3.9.2 Such applications will be dealt with as if they were requests for an officer to attend and give evidence at a civil court.
- 3.9.3 Following an interview the officer will prepare a short draft statement that will be passed to the relevant Commander for approval. Should the evidence to be given be satisfactory, approval will be given for attendance at the tribunal. If any part of the evidence appears objectionable, the matter will be referred to legal Services.
- 3.9.4 Details of previous convictions will not be given except in specific circumstances. The subject of the record may apply for their own previous convictions or where a lawful basis has been identified and only in accordance with the Data Protection legislation.

3.10 Information to Insurance Companies

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3.10.1 For information relating to Road Collisions please refer to the next section.

3.10.2 The Devon & Cornwall Police complies with the ACPO (now the National Police Chiefs' Council) and Association of British Insurers (ABI) Memorandum of Understanding Insurance MOU. This document details the processes for dealing with claimants with regard to crime and/or property. The MOU only applies to issues arising at the stage of an insurance claim.

3.10.3 Each request for information under the MOU will be considered on an individual basis. Reasons for agreeing or not agreeing to disclosure will be recorded. Information supplied pursuant to these Guidelines will only be used for the purposes given. The Alliance Disclosure Team are responsible for dealing with requests for information from police reports in relation to insurance companies and loss adjusters under this MOU.

Alliance Disclosure Team
Devonport Police Office
Fore Street
Devonport
Plymouth
Devon PL1 4DW

3.10.4 Any disputed requests should be referred to the Disclosure Manager in the Alliance Disclosure Team.

3.11 Civil action arising from road collisions

3.11.1 Collisions and Tickets Section will be responsible for dealing with requests for information from police reports in relation to road collisions in the force area, except for those investigated under the Road Death Investigation Manual, where the Serious Collisions Investigation Unit will hold specific responsibility for the disclosure of expert and specialist evidence.

3.11.2 Information will normally be withheld while criminal proceedings or an inquest are pending or contemplated, except for:

- a) The supply of a copy of a witness's own statement to a defendant or to a witness;
- b) The supply to persons having a legitimate interest, of names and addresses of persons involved, details of vehicles, insurance particulars and names of persons against whom proceedings are pending.

3.11.3 Where a request is received from, or on behalf of, a party to a road collision seeking the details of drivers, vehicles and insurance companies involved, a reply containing that information may be sent direct. Copies of correspondence will be forwarded to the Collisions and Tickets Section (CATS) at Crownhill Police Station.

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- 3.11.4 Requests for any other information about a collision will not be answered from police stations but will be referred to the Collisions and Tickets Section for reply.
- 3.11.5 Local Authorities should be treated on the same footing as private persons in respect of information to be included or excluded from abstracts of police reports or collisions.
- 3.11.6 A search fee will be retained if no record of the road collision can be traced from the particulars provided in the application. It is important, therefore, that enquirers be advised that all applications should contain all available information including time, date, location of collision, details of police officers who dealt with it, and names of parties concerned.
- 3.11.7 Copies of witness statements concerning road traffic collisions will normally be supplied on request, and on payment of the appropriate fee, to persons having a legitimate interest, without first obtaining the consent of the witness concerned. However, if such a statement contains defamatory or personal material, a copy will not be supplied to any other person without that witness's consent, except on the specific directions or following order of a court.
- 3.11.8 Information obtained by the police when attending a fatal road collision, including copies of statements of witnesses, may be supplied on request to parties of civil proceedings arising from that collision (if that information has been furnished to a coroner and no inquest or proceedings are pending or contemplated).
- 3.11.9 In any evidence given in civil proceedings, officers will not comment or support evidence which is to be given by an expert or opinion given by outside bodies/persons. Police evidence will stand alone, as in any other proceeding.

3.12 Information to registration authority regarding crimes committed in nursing and residential homes

- 3.12.1 Where a victim (of a crime) is either a resident or staff member of a care home, or care home with nursing or other service registered to the Care Quality Commission (CQC), the Registration Authority (currently CQC) must be advised of the crime having been reported and the outcome. The investigating officer should supply the information. The Registration Authority will take note of the information as part of their inspection programme.
- 3.12.2 Details of the Registration Authority (currently CQC) for the purpose of notification of crime in nursing and residential homes:

CQC National Customer Service Centre
Citygate
Gallowgate
Newcastle upon Tyne

NE1 4PA

Telephone: 03000 616161

Fax: 03000 616171

3.13 Common Law Police Disclosure (CLPD) to employers or a regulatory body

3.13.1 CLPD replaces the Notifiable Occupations Scheme and focuses on providing timely and relevant information which might indicate a public protection risk.

3.13.2 CLPD provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. This to ensure the right balance between the interests of the individual and the importance of public protection.

3.13.3 Information is passed to an employer or regulatory body at charge or arrest rather than on conviction, which may be some time after. This to enable them to act swiftly to put measures in place to mitigate any danger.

3.13.4 Disclosure is on the basis that the information is used only for the purposes of the investigation by the regulatory body and the confidentiality already attached to it will be maintained.

3.13.5 Where a Fitness to Practice enquiry is made, consideration will be given to disclosure on request providing evidence of a statutory provision has been given.

3.13.6 Fitness to Practice enquiries and CLPD disclosures are dealt with by the CLPD Disclosure Officer on 303957 or email CLPD

3.13.7 Disclosure relating to HM Forces personnel must be dealt with in accordance with Force Policy D052 – Military Forces, Absentees and Deserters, Suspects and offenders.

3.13.8 If the police come into possession of confidential information which, in their reasonable view, is in the interests of public health or safety or some other public interest, and should be considered by a professional or regulatory body, then the police may decide to disclose certain information. All such cases must be referred to the Director of Intelligence who will refer to Legal Services.

3.14 Disclosure of Police National Computer (PNC) stolen vehicle information (to the public by the police)

3.14.1 The identity of the enquirer must be satisfactorily established. This will normally mean attendance of the enquirer in person at the front counter of a police station with suitable documentary proof of identity.

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- 3.14.2 The identity of the enquirer must be recorded for retrospective searching. These details may be recorded in the originator field of the PNC automatic logging facility along with the details of the officer/member of support staff establishing identity and disclosing information.
- 3.14.3 If there is no trace Lost or Stolen result on the PNC, the enquirer should be told “There is no record on the Police National Computer of the vehicle being stolen”. If there is a trace the officer/member of support staff must ensure the appropriate action is taken.
- 3.14.4 Information should be confined to answering the question “Is the vehicle recorded on the PNC as stolen or not?” No other information should be given. This does not restrict the officer/member of support staff taking the appropriate action if there is other information on the PNC regarding the vehicle.
- 3.14.5 These rules will also apply to the plant data in the PNC property file.

3.15 Disclosure of Force Policy

- 3.15.1 Occasions may arise at court where officers are asked to disclose Force policy. Certain Policy and Procedures, or parts therein, may be confidential or exempt from disclosure for the purposes of data protection legislation or the Freedom of Information Act and should not routinely be disclosed, except under relevant authority or by order of the court.
- 3.15.2 Any individuals/organisations external to the police can access Force Policies on the Force external website or by writing to the Alliance Freedom of Information Unit.

4. Monitoring and Review

- 4.1 Review and amendments will be coordinated by the Policy Unit. The Policy Owner has overall responsibility for ensuring the content of the Policy is appropriate and up to date. This Policy will be reviewed every 3 years subject to legislation/process changes.

5. Associated Documents

Policy and Procedure

- DCP-P-002 Reports on Character and Convictions
- DCP-Pr-002 Disclosure and Barring Service Procedure
- DCP-P-006 Information Sharing Policy
- D053 External use of Police images
- Devon and Cornwall Policy Page
- Joint/Alliance Policy Page
- J-P-011 Joint Records Management Policy (formerly D032)

SharePoint

- Vision, Mission & Values (DCP)
- Human Rights Legislation
- Records Management (DCP)
- Freedom of Information Act 2000 (FOIA)
- Government Security Classification (GSC)
- UK General Data Protection Regulation /Data Protection Act (2018)
- Code of Ethics (DCP)
- Police Staff Council Standards of Professional Behaviour

College of Policing

- National Decision Model
- Authorised Professional Practice (APP)

6. Document History	
Present portfolio holder	Director of Legal, Reputation and Risk
Present document owner	Head of Alliance Information Management
Present owning department	Alliance Information Management Department
Below details required for new documents, major amendments (Dorset only) or novel/contentious amendments (Devon & Cornwall only)	
Name of Board and/or Chief Officer approving	Business Board T/DCC Nye
Date approved	18/03/2021
Business Board member approving (Devon & Cornwall only when not novel or contentious)	N/A
Date approved	N/A

7. Version History			
Version	Date	Reason for amendments	Amended by
1.0	23/03/2021	Review of D123 and put into new template	Alliance Data Protection and Information Sharing Manager
1.1	12/07/2022	Insert procedure into new template. No other changes made	Policy Unit

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We welcome any comments or suggestions you wish to share about the content or implementation of this procedure. If you would like to make contact to discuss further, please email: Forcepolicyandprocedures@devonandcornwall.pnn.police.uk