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Statement made on behalf of:                    The Commissioner of Police of the Metropolis

Witness:    Karen Progl

Statement No:                                        1

Exhibits Referred to:

Date Statement Made:                            7 April 2021

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**IN THE MATTER OF: PUBLIC INQUIRY INTO UNDERCOVER POLICING**

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**Witness:**                    Karen Progl

**Occupation:**                Senior Manager, ACRO Criminal Records Office

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Lamb's Conduit Street, London WC1N 3NR.

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**I believe the facts stated in this witness statement are true**

Signed... **Karen Progl**

Dated ..... 07/04/21

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**Introduction**

1. I have been employed as a Senior Manager at the ACRO Criminal Records Office (ACRO) since November 2016, I am also their data protection officer. ACRO is a national Police unit, created under S22a of the Police Act 1996. ACRO is hosted by Hampshire Constabulary. I manage, amongst other things, the National Police Chiefs' Council (NPCC) record deletion process for the Police National Computer (PNC). This affords data subjects the opportunity to request the deletion of their

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PNC data. This process does not extend to conviction imposed by a court, there is a common ground that these cannot be altered or deleted by individual Chief Officers of Police.

2. I have worked for the Police as a member of police staff since January 2001 for both Hampshire Constabulary, Dorset Police and now ACRO. My experience is varied but since 2006 my roles have related to information management. I am an active member of the NPCC portfolio groups for data protection, disclosure and records management. On occasion, I assist the NPCC with national work, including reviewing the NPCC policy of retention on PNC.
3. I have been directed on the behalf of the IRSC (Inquiry Review and Support Command) to make this statement in response to R9-119(a), dated February 2021, from the Undercover Policing Inquiry (UCPI).

#### **The Police National Computer**

4. Since beginning life in 1974 with solely a Stolen Vehicles database the PNC has evolved in line with the needs of modern policing. In 1977 the Criminal Names file was introduced and major changes were implemented by the Phoenix project which provided a significant enhancement to the Names application in 1995.
5. The strategic aim of PNC is to provide the best possible information for operational policing purposes.
6. The statutory authority for the PNC is provided by Section 27(4) of the Police and Criminal Evidence Act 1984, which enables the Secretary of State by regulations to make provision for "recording in national police records convictions for such

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offences as are specified in the regulations". Regulation 3 of the National Police Records (Recordable Offences) Regulations 2000 (SI 2000/1139) provides that there may be recorded in national police records convictions, cautions, reprimands and warnings relating to any offence punishable with imprisonment or specified in the schedule to the regulations.

7. PNC is a highly valuable law enforcement asset, which is relied on by the criminal justice system as a whole, to support the most vulnerable as well as allow a considered assessment of threat, harm and risk. Its value is derived from it being a comprehensive register of criminal convictions.
  
8. PNC records can be created by any police force operating in any jurisdiction within the United Kingdom (UK) or by any recognised Law Enforcement Agency (LEA) or Non-Police Prosecuting Agency (NPPA) with relevant permissions to do so, whether they are exercising their lawful duties within the UK or abroad e.g. the Service Police.
  
9. Generally speaking, a record is created on the PNC when a person is:
  - a. Charged
  - b. Arrested
  - c. Reported
  - d. Summoned
  - e. Issued with a postal requisition (to attend court)
  
10. Other reasons for creating a PNC record include where someone has been issued with a firearms licence, disqualified from driving, subject to court orders or subject

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to honour based violence. The PNC also contains 'warning signals' i.e. that a person maybe violent on arrest; they have an ailment or the fact that they might conceal items on their person i.e. drugs or weapons.

11. The PNC contains several separate databases; these include:

- a. **Names File** - This contains a large amount of information about people who have been convicted, cautioned or arrested (referred to as 'nominals' on the PNC). This includes links to fingerprints and DNA. (The PNC is a text only computer so no graphical information is stored; photos that are taken whilst in custody have information relating to their location so enquiries can be made to obtain a copy of them). Nominals can be placed on the PNC as 'Wanted/Missing' if they are sought in connection with a crime, and/or on warrant including failing to appear at court, a deserter from military service or reported missing. All arrests and convictions will appear on PNC as well as any impending offences; full disposal history is also included which will show the sentence handed down for each offence. Numerous other items of information are also stored including all previous addresses, co-defendants, marks/scars and descriptions.
  
- b. **Vehicle File** - Provides details on the registered keeper of a motor vehicle, as well as storing other information from the Driver and Vehicle Licensing Agency (DVLA) as to the vehicle's status (Tax Expired, V23 Submitted, Stolen, Chassis Number, Engine Number etc.). Certain reports can be added by the police, which relate to the vehicle or occupant status; examples include if the occupants are believed to be involved in crime or are missing, if the vehicle is stolen, if the vehicle is believed to be cloned

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etc. The vehicle record system is currently linked to the Motor Insurance Database (maintained by the Motor Insurers Bureau) which can confirm if an insurance policy is on the vehicle and the details of such policy such as named drivers, policy dates, policy number and insurance company. The Vehicle Operator Services Agency (VOSA) have computerised the MOT; as a result, a link has been created to the PNC, which shows the expiration date of the MOT tests for vehicles. The vehicle file actually contains two separate databases (that show on a single screen), one of which is updated and controlled by the DVLA, and the second part is the responsibility of the police (including vehicle reports, which the DVLA do not have access to).

c. **Property File** - Certain types of stolen and found property can be recorded onto the PNC system. These are recorded under the following categories: Trailers (including sidecars), Plant (non-DVLA-registered agricultural and construction machinery), Engines (those that do not fall under other categories), Animal (registered animals), Marine Craft, and Firearms (including imitation firearms).

d. **Drivers File** – This database contains information on circa 65 million people who either hold a driving licence, are disqualified from holding one, or have a driver record held at DVLA. The record will contain information relating to test passes, endorsements and the licence entitlements. This database is the responsibility of the DVLA.

12. PNC operators undergo initial training to operate the system which usually consists of a five-day course to view data. Further courses are available to expand the

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user's ability to use the system i.e. create records and conduct more in-depth queries.

13. The PNC is one of the main sources of information accessed when a Disclosure and Barring Service (DBS) check is made and records a person's convictions and cautions which will be revealed in an employment vetting check undertaken by the Disclosure Services i.e. a check carried out by the Disclosure and Barring Services.
14. Because of changes to legislation on 29 May 2013, the DBS introduced a 'Filter' that where appropriate, certain specified old and minor offences are no longer published in a criminal record certificate. The filtering rules and the list of offences that will never be filtered are available on the DBS website.
15. The PNC holds the demographic information about a person whereas the National DNA Database (NDNAD) and IDENT1 (fingerprint database) hold biometric information i.e. DNA profiles and fingerprints respectively.
16. The retention of records held on the PNC is in accordance with the period set out in the 2015 Guidance, 'Deletion of Records from National Police Systems (PNC/NDNAD/IDENT1)', which is until a person is deemed to have reached 100 years of age whereas the retention of biometric information (DNA profiles and fingerprints) is determined by the Police and Criminal Evidence Act 1984 (as amended by Chapter 1 of the Protection of Freedoms Act 2012). In essence, the DNA and fingerprints of persons convicted of an offence (including out of court disposals) can, in certain circumstances, be held in law indefinitely (defined in the 2015 Guidance as being until a person has deemed to have reached 100 years of age) whereas the biometric information of persons who are not convicted (or do not receive an out of court disposal) is retained dependant on whether or not the

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offence is a qualifying offence, excluded offence or minor offence and subject to whether the person was arrested and not charged or arrested and charged with an offence covered by the National Police Records (Recordable Offences) Regulations 2000.

17. In support of the powers provided by s.82 Criminal Justice and Police Act 2001 (CJPA) and ss.9 and 10 Criminal Justice Act 1967 (CJA), it became necessary to retain on the PNC a nominal record of every person arrested for a recordable offence to enable a link to be made between the DNA profile held on the NDNAD and the fingerprints held on IDENT1 to help police identify an individual following a match on either system.

18. Access to the information held on the PNC is determined by Role Based Access Controls (RBAC) for instance, police users of the PNC will generally see the record in #NE meaning 'Names database – everything' whereas a non-police user of PNC may have a restricted view of the record determined by other access codes i.e. #LF, #LG or #LH. The specification of different access codes can be found in the PNC Data Definitions Manual maintained by the Home Office Police Live Services.

19. Other agencies may have access to the PNC. Certain agencies have direct access to PNC such as the warrants enforcement section of Her Majesty's Courts and Tribunals Service (HMCTS). However, the courts section within HMCTS does not have direct access to PNC. Court results are generally updated automatically from Magistrates courts via a digital interface to PNC, other than information such as court orders, which are updated manually by the relevant police force following notification via the Bichard 7 portal. The other courts (whether Crown Court,

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County, High Court, etc) send a notification (e.g. by email) to the relevant force, who then update the PNC. The Crown Prosecution Service (CPS) is wholly reliant on the investigating police force providing PNC details as part of the disclosure file in a matter.

### The microfiche library

20. Many of the records held on the PNC were originally created and maintained manually at the former National Identification Service (NIS) from source documents submitted by forces. A microfiche library of some 5 million records is archived at the Hendon Data Centre. Approximately 20% of the 5 million manual records have not yet been back record converted (BRC) onto PNC and there are occasions where the archived manual records will have to be examined: BRC is the means by which data from previously held records (including paper records, e.g. NIB74 series of forms) are updated to full PNC records.
21. Considerable amounts of data are still held on the microfiche of persons who first came to notice before the computerisation of police records. Ideally, all this data should be "converted" to the PNC, but cost constraints dictate that a more structured as-and-when-necessary approach be adopted.
- Forces are responsible for the BRC of microfiche records to PNC when persons come to notice of the police. Similarly, if the Disclosure Services (DBS, Disclosure Scotland and Access NI) get a match on a record in need of back record conversion, they will initiate the BRC procedure. ACRO will carry out the required BRC on their behalf.

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### The weeding process

20. On the 16 March 2006 the, '*ACPO General Rules for Criminal Record Weeding on Police Systems*' were replaced by the '*Retention Guidelines for Nominal Records on the Police National Computer: incorporating the step down model*' (the "*Retention Guidelines*"). The Retention Guidelines introduced a change in retention policy insofar as all information relating to 'event histories' held on the PNC would henceforth be retained on the PNC until a person was deemed to have reached 100 years of age.
21. The general approach under the old Association of Chief Police Officers (ACPO) "Weeding Rules" was that records would be completely deleted from the PNC after a specified period of time, and thereafter would not show up on a criminal records check. However, the Retention Guidelines introduced a new approach, under which police records on the PNC would "step down" after a certain period rather than be deleted altogether.
22. The Retention Guidelines were based on a format of restricting access to PNC data, rather than the deletion of that data. The restriction of access is achieved by setting strict time periods after which the relevant event histories 'step down' and only be open to inspection by the police.
23. Following the 'step down' other users of PNC would be unaware of the existence of such records, save for those occasions where the individual was the subject of an Enhanced Criminal Conviction Check under the [then] Criminal Records Bureau employment vetting process. In those cases the data would be dealt with as intelligence and only disclosed, where the relevance test has been applied, on the authority of the Chief Officer.

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24. The time period after which an individual's event history was "stepped down" under the Retention Guidelines varies depending on, for example, the nature of the offence(s) that led to the event history, the age of the individual at the time the record was created and the sentence (if any) imposed.

25. Prior to the Chief Constable of Humberside Police and others v Information Commissioner Appeal Court decision on 19th October 2009, the process followed was that outlined in the Retention Guidelines for Nominal Records on the Police National Computer, where under certain circumstances information could be "stepped down". In those cases, the information was reviewed by the police force concerned and disclosed only once a test of relevance as defined in Home Office Circular 05/2005 had been applied. Since the aforementioned judgment, the police are now obliged under Part V of the Police Act 1997 to provide all convictions, cautions, reprimands and warnings to the Disclosure Services, regardless of whether this information had been previously stepped down. As a result of this adjudication, all records that had previously been subject to manual 'step down' were reinstated onto the PNC.

26. The NPCC is currently reviewing its policy on retention and intends to formally seek the views of stakeholders on the desirability and practicability of a proposed rules to retain and delete data from PNC, based on seriousness of offence, recidivism and time based disposal.

#### **HN298's Conviction**

27. HN298's conviction occurred in 1972, the 'Criminal Names' application went live in 1977. Every microfiche record had an entry. All the records indicated at that point was that there was information on microfiche. A 1972 record would have been there at this point. The process of recording individual

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conviction events on PNC started in 1984. In 1984 all first offender events started to be recorded and 1983 events were back record converted (BRC'd), 1982 was BRC'd in 1985, 1981 was BRC's in 1986. In addition to that there was 'come to notice' BRC. Anybody already known pre-1981 who was arrested again would have the current and all historic cases added.

28. The fact that HN298's conviction does not *currently* appear on the PNC (or in the microfiche archive) does not necessarily mean that it has never appeared there, because the record(s) might have been deleted in accordance with "the old ACPO "Weeding Rules". This would also include the microfiche record.

29. Finally, the "stepping down" procedure is essentially irrelevant as far as this record goes. Prior to 2009 there was information on the PNC that was hidden from the view of some users, but since 2009 that information has become available to everyone – therefore a search for HN298's conviction in December 2020 would have yielded results had the record still been on PNC.

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I believe the facts stated in this witness statement are true

Signed.. **Karen Progl**

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Dated ..... 7 April 2021