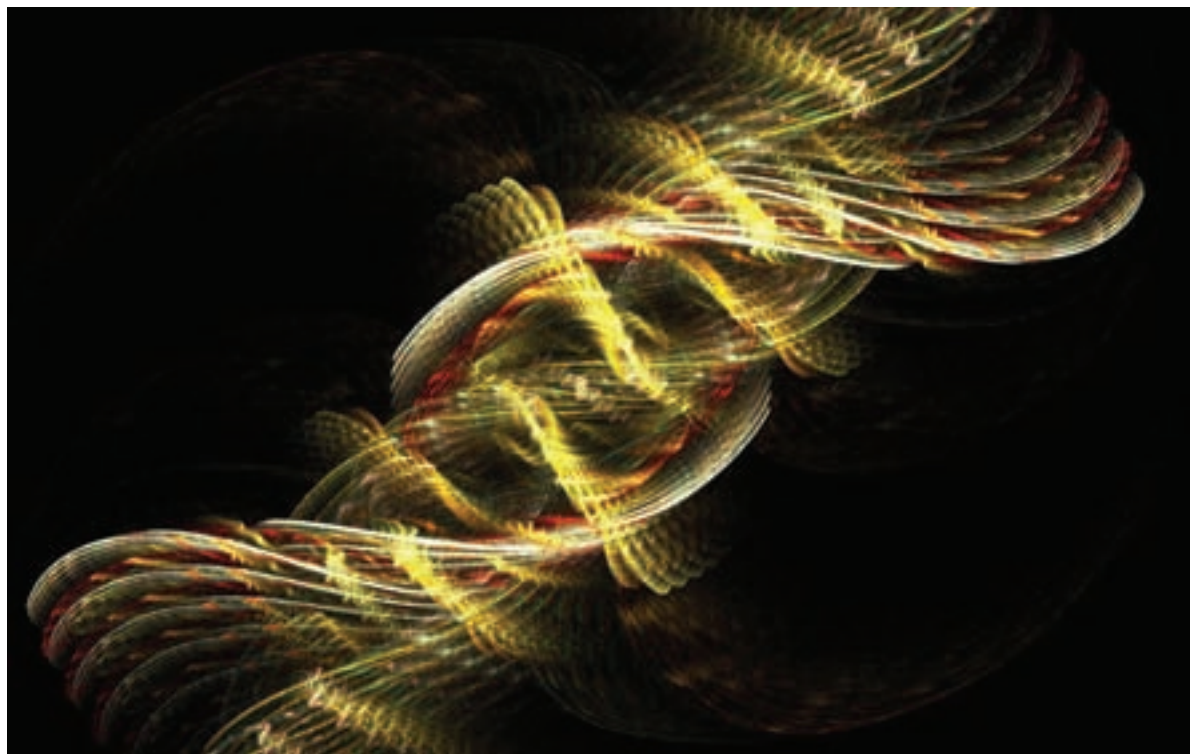


The devil in the detail



Two days after the dubious pleasure of making the Mail on Sunday's front page, no less, ACPO's Criminal Records Office (ACRO) near Southampton received a visit from BAPCO Journal. Ian Readhead, ACRO's Director of Information and current BAPCO President, was happy to set the record straight while providing a snapshot of ACRO's complex work.

"The benefits are that they will know who is coming in and what type of convictions they have had. This would be good in particular for countries like Thailand, which have a huge sex industry."

➔ Anne Fursey, Deputy Manager, Police Certificates division.

At the heart of ACRO's existence is the importance of data sharing, and ex Deputy Chief Constable Ian Readhead at the very beginning of the visit set the theme by citing the Soham murders as a prime example of a situation where things could have turned out very differently had the correct checks and balances been in place. "People's memories get blurred with time but the fact is Ian Huntley did not work for the Cambridge school that Holly Wells and Jessica Chapman attended, but he worked at a local technical college. Nevertheless, Huntley would not have been employed there had the technical college been made aware of his past.

"We are trying to establish an environment where we have more comprehensive recording of criminal data, and to ensure it is available to other police forces and embassies, to make communities safer."

Nobody can deny that data retention and data protection is a current issue. Not a week goes by when the subject isn't making headlines. In the last two weeks it was the Guardian reporting on how the police targets thousands of political campaigners in surveillance operations, storing their details on a database for at least seven years.

The Mail on Sunday's headlines however mainly revolved around the fact that ACRO is selling information from the Police National Computer for up to £70 – even though

ACRO pays only 60 pence to access each record.

The Mail was referring to the police certificates that ACRO started issuing in July last year to people applying for visas to live in the US, Australia, New Zealand, and Canada.

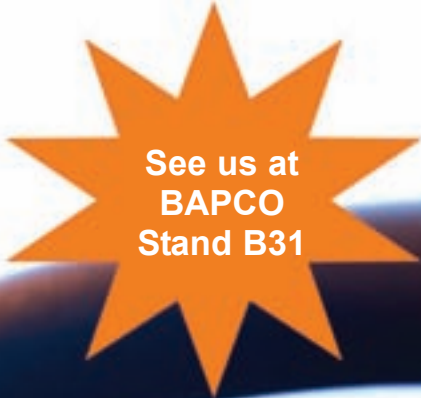
In the case of those with criminal convictions wishing to visit the US, certificates are also required.

Previously, people could obtain their full criminal history for visa applications by making a "subject access" (SA) request, which had a charge of £10.

However, such a request contains a full criminal history – including reprimands, cautions etc. "For the purposes of employment and holiday visas to the US, all that detail is not necessary and it probably contravenes the Rehabilitation of Offenders Act 1974, which enables some criminal convictions to become 'spent' after a certain period of time," clarified Readhead. "Our approach has been to apply the Police Retention Guidelines Model, which 'step down' old, minor criminal convictions."

After the 'spent' period – with certain exceptions – an ex-offender is not normally obliged to mention their convictions when applying for a job or obtaining insurance, or when involved in criminal or civil proceedings. "So the Information Commissioner was very supportive of not using an SA for visas."

It was this argument that resulted in ACPO convincing the



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Ian Readhead, Director of Information at ACRO, and Gary Linton (right), Head of ACRO and UKCA-ECR.

Home Office to support a six-month trial last year with ACRO issuing police certificates. This trial is now permanent.

So what does the process of putting together a police certificate entail? Once an application has been received, ACRO interrogates the Police National Computer – a process which does indeed cost 60 pence per record – as well as other database sources (eg microfiche). Once the information is gathered together, it is then edited (step-down convictions are taken off), written out clearly and in full (minus incomprehensible acronyms), and printed off with an individual's photograph.

Where the SA used to cost the public £10 for a 40-day service, the certificate costs £35 for ten days – or £70 for a premium three-day service. Copies are also available so a frequent visitor to the US can request copies at £5 per copy.

The system is proving to be a success. Last year around 63,000 certificates were issued in 12 months of operations. This year it may even double that number, as applications in January 2009 were 8,500.

Anne Fursey, Deputy Manager of the 35-strong certificates team, was kind enough to show the *Journal* round the work area. Fursey suggested that one of the reasons for the increase could be the opening up of certain countries to immigration, such as Canada. "And we do receive a lot of applications from India and China, from people who lived here for a few months – perhaps as students – and now wish to emigrate to another country."

The pilot system is proving so popular with embassies from the US, New Zealand, Canada, and Australia, that ACPO would like to expand the process to South Africa, China, India, and Pakistan, to the point where eventually there could be only one process for all immigration visas. Indeed, other countries have expressed an interest in joining the scheme. "The benefits are that they will know who is coming in and what type of convictions they have had. This would be good in particular for countries like Thailand, which have a huge sex industry," said Fursey.

The ACPO Criminal Records Office also operates the UK Central Authority for the exchange of criminal records (UKCA-ECR) with other EU Member States. The excess from the Police Certificates division helps support the work of the UKCA-ECR, explains Readhead. "If interest grows as is expected, staffing levels will have to expand. Currently staff are employed via the UK Central Authority for the

Exchange of Criminal Records (UKCA-ECR), with profits from the police certification project being then fed back into that organisation. Members of the public who use the service may be paying more than they did previously, but that revenue generation is ultimately saving on the public purse," explained Readhead.

Exchanging criminal records

The UKCA-ECR is an organisation that primarily focuses on the notification to EU Member States of convictions imposed in the UK on a national from that EU Member State, and vice versa on the receipt of notifications of convictions of UK nationals in other States.

In the future the EU-wide collaboration could expand into some kind of super network of different countries' access to national criminal registers, all accessible by mobile data. "In the fullness of time what we want is – if I'm checking a PDA in Southampton – the PNC will check the network right across Europe and it will pull a record out. That sounds far fetched but give it ten years and that's what will be happening," said Readhead.

No small challenge is the fact in different countries there are different organisations responsible for the relevant data. In some countries it is the courts rather than the police that hold foreign national conviction information. There is also great disparity in how that data is organised.

Detective Superintendent Gary Linton, Head of ACRO and UKCA-ECR, believes that there is a Europe-wide acknowledgment that properly managed, the ability to move information across borders is key for the safety of European communities and their ability to tackle crime.

One of the factors necessary to achieve that, points out Linton, is good governance and transparency of what information is kept, and for how long.

Today, ACRO is engaged in the sharing of criminal convictions information on behalf of England, Scotland, Wales and Northern Ireland, and in Linton's words it is fully engaged with over half of the EU Member States and beyond. "That has led to the managing of exchange of criminal records outside Europe via agencies like Interpol. This has led us to identification issues and the way to do that is via fingerprinting. Next year we will have our own in-house fingerprinting facilities, primarily to support the international exchange of criminal records. A lot of Europeans have identity cards, but we don't, which means that fingerprints are key." Linton added that without the income from the police certification project it would have been impossible to even contemplate such a purchase.

"We also take into account that we need some money up front too to get more people and desks – we are not a profits-seeking company that can put down investors' money, we have to work within our margins."

Not bad for a process that was initially a six months project.

As well as looking to expand its services to other countries, the police certificates division is going to streamline its business processes by joining together the IT. "We are looking for one application that will do everything from beginning to end, and perhaps we'll be able to decrease the service time from ten days to five."

The division is also widening its payment processes to

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➤ Gary Linton, Detective Superintendent, Head of ACRO & UKCA-ECR.



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"In the fullness of time what we want is – if I'm checking a PDA in Southampton – the PNC will check the network right across Europe and it will pull a record out."

➤ Ian Readhead, ACRO Director of Information and BAPCO President.

accept debit and card payments to help certificate applications from overseas.

S and Marper v the United Kingdom

This high-profile case related to two individuals whose fingerprints and DNA profiles were held by the police, although no convictions had occurred. Both applicants had unsuccessfully requested that their fingerprints and DNA samples be destroyed, and the information had been stored lawfully without time limits.

In December 2008 the European Court of Human Rights held that in the case of S and Marper there had been a violation of Article 8 of the European Convention of Human Rights. "I think that the ruling was correct," said Readhead. "Take the example of a 16-year-old who goes to John Lewis with 10 friends and one of them shoplifts. If all are arrested and have their DNA taken, it is not right to keep their DNA for life if only one has been convicted. It is not appropriate as the S and Maper case concluded."

Both Linton and Readhead explained that a well-thought out framework is required, one that will provide guidance on situations ranging from where someone has been arrested on suspicion of murder to where someone has been arrested for shoplifting and not convicted. "I think it will be necessary for us to articulate the framework with some clarity, including time of retention in relation to seriousness of offence, age of offender etc. In some situations, like a Black Panther enquiry, you may want to keep it indefinitely."

The DNA Special Operations Group of ACRO works with foreign countries to try and solve unsolved crimes, by running DNA details through a database of UK offenders. "That's proved very successful. Last time we did it we discovered an armed robber who was a UK national but had committed offences in Holland. He was successfully arrested in London recently and now faces charges in their country. I think sharing information in this way will become a bigger feature of future major crime investigations."

The Special Operations Group also investigates breaches of security, such as that of PA Consulting and the loss of a data stick that included details of around 10,000 prolific offenders as well as information on all 84,000 prisoners in England and Wales.

John Harvey is National Operations Manager for ACRO, and he is often brought in to work with the Home Office in relation to DNA issues. "We were involved with the Home Office when the memory stick went missing, and we were asked to evaluate the significance of the stick's contents, and the risk to individuals. That was quite an intensive enquiry over a short space of time."

One of the areas Harvey is looking at is the ramification of the S and Marper v the UK case, in terms of the role of the police in the deletion of DNA and fingerprints. "We have been asked for a policing perspective on how to promote the best way forward for a new DNA or fingerprint policy for England, Wales and Northern Ireland."

Harvey explained some of the issues involved in creating such a policy. For one, it involves 4.5 million records – not all of which are related to the ruling. Next are the criteria on which to base the destruction policy, and the retention policy for the future. "Legislation will have to be changed to accommodate that. It is not just about pressing a button, as there are considerable internal costs and resources."

Not getting it right could mean another adverse Ruling in the future. Or even worse, it could mean erroneously deleting records that shouldn't be deleted. "It is a huge joint effort involving legal departments, NPIA, and Foreign and Commonwealth Office. Whatever policy we come up with, other countries will be looking at very carefully. Part of the S and M ruling suggested that the Court felt the UK's policies were inappropriate for a lead country."

The Court had noted that although the retention of DNA/fingerprint data had a clear basis in domestic law under Section 64 of the 1984 Police & Criminal Evidence Act, it was far less precise as to the conditions attached to and arrangements for the storing and use of this personal information.

Subject Access data and ACRO

On a more tangible and straightforward level, ACRO's next big project involves bringing in-house the SA information which up to now has been held at New Scotland Yard's National Identification Service.

NIS has for years been looking after SA requests for personal data held in the PNC, but in the next few months ACRO will manage this process from their premises.

SA requests are for individual use and not for use with visas or employment vetting application. "Section 56 makes it unlawful for employers to require confirmation of lack of convictions, but that part has not been enacted by government. We try to discourage people from applying for these purposes," explains Readhead.

ACRO's work in signposting enquiries to Police Certificates, the CRB and Disclosure Scotland has reduced SA applications from over 200,000 in 2006 to less than 90,000 last year. The service is paid directly by applicants to their local police forces, and ACRO receive funding for providing the service from the NPIA. "We will be going live around the middle of May, and we are going through the IT change now," explained Linton.



ACRO – background

Led by Detective Superintendent Gary Linton, the aim of ACRO is to provide operational support to several Chief Officer Portfolios dealing with matters relating to criminal records and associated biometric data, including DNA and fingerprint information.

ACRO was set up in response to a perceived gap in the Police Service's

ability to manage criminal records and in particular improve links to biometric data.

ACRO provides guidance and management on access to these criminal records and seeks to improve their effective operational use. It provides a focal point for policing matters in connection with criminal records.