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Date: 02/10/2025

Your Ref:



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Dear Convenor

Criminal Justice Modernisation and Abusive Domestic Behaviours Reviews (Scotland) Bill

I refer to the above legislation which is currently making its way through the parliamentary process, and a request for views from Police Scotland in relation to the following Stage 3 amendment:

Where an image of physical evidence is used under subsection (1), the physical evidence may not be destroyed while proceedings are ongoing against the accused, and in any event, not until final determination of any appeal.

In response to the above amendment, Police Scotland have concerns as to the impact this amendment will have on operational policing. This amendment in effect creates a statutory retention period for storage of physical productions, which will create significant issues for Police Scotland in relation to our estate and capacity to store physical evidence for this length of time.

This amendment may have unintended consequences which are contrary to the benefits which this legislation seeks to achieve. That is, the amendment will result in the current position of a significant number of physical productions being stored for considerable periods of time beyond that which would be the case presently. It will create a statutory provision which will restrict the ability of Police Scotland to manage the storage and retention of productions in a way that meets our operational needs but also does not negatively impact on the criminal justice system or the rights of an accused person.

The nature of productions seized is vast; we seize items for enquiries and crimes which vary in size and relevance. Police Scotland can retain up to 700,000 items per annum as productions, some of which are disposed of due to non-court disposal instructions, some of which are retained for the duration of the case and appeal and are not destroyed until after COPFS confirm the appeal timescales have passed. Police Scotland would offer the

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observation that a significant volume of productions are never required for court proceedings, with space currently being at a premium. Police Scotland are currently considering other options which will incur significant cost.

We also seize items which may be considered dangerous goods, which includes chemicals. The seizure of such items may be relevant to allow for examination and photographs however the continued storage for long periods of time creates a significant risk to our staff and the wider community. In addition to this, many of the items we seize as productions will degrade over time making it difficult to retain them for long periods.

Policy and guidance are already in place to provide safeguards in relation to the retention of productions. For example, productions seized in relation to a case reported to the Crown Office & Procurator Fiscal Service (COPFS) will only be disposed of when they notify Police Scotland that the case has concluded and appeal timescales have lapsed. The approach of adopting robust policy and guidance, in consultation with COPFS, addresses operational and safety concerns around retaining large, potentially hazardous items and supporting cases going through the criminal justice system.

In closing, Police Scotland supported the introduction of this legislation as it accelerates our ability to police in a digital world, further support the transformation of the criminal justice system and maximise the full benefits to be derived from the national roll out of Body Worn Video. Police Scotland would like to see a greater reliance on the presentation of digital evidence rather than defaulting to the seizure and retention of physical items. This does not of course include physical items which need to be submitted for forensic examination.

I trust that the above is of assistance.

Your sincerely

A handwritten signature in black ink, appearing to read 'C. Stewart', with a stylized flourish at the end.

T/Chief Superintendent Chris Stewart
Divisional Commander
Criminal Justice Services Division

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