



**NIACRO Response to Department of Justice Consultation on
Proposals to Amend the Legislation Governing the Retention
of DNA and Fingerprints in Northern Ireland**

27th August 2020



1. Introduction

1.1 NIACRO is a voluntary organisation that has been working for almost 50 years to reduce crime and its impact on people and communities. Our vision is of a society in which the needs and rights of all citizens, including victims of crime, adults and children who offend and those who are at risk of offending, are equally respected.

The Charity's Articles of Associations, approved in October 2015 by the Charity Commission for NI, identify NIACRO's objects which meet public benefit test, as being:

- to alleviate need and disadvantage through the provision of services, assistance, advocacy and representation to care for, resettle and rehabilitate offenders and ex-offenders, alleged offenders, persons at risk of becoming offenders and to care for the victims of crime and the families.
- to work for the prevention and reduction of crime for the benefit of the public in Northern Ireland.

Specifically, NIACRO's contributions have been to:

- support the resettlement of adults leaving prison and those on community supervision.
- build skills, confidence, and employability of people both in prison and in the community.
- support children, young people, families, and adults who are displaying behaviour that would put them at risk of engaging with the criminal justice system, supporting positive lifestyle choices.
- influence service providers in the statutory, voluntary and community sector and building their capacity to provide appropriate support to those affected by the criminal justice system.
- impact policy and practice by communicating our policy asks and engaging relevant publics at every level.

At the heart of NIACRO's work is a drive to reduce (re)offending within the understanding that integrated and flexible approaches towards desistance are most effective.



2. Preliminary Comments

European Court of Human Rights decisions *S and Marper v UK*, and *Gaughran v UK* ruled the current Northern Ireland DNA and biometric retention policy violates Article 8 of the European Convention on Human Rights. NIACRO welcomes the policy which removes the criteria to include DNA and biometric retention of people “charged” but not convicted with crimes and the infinite retention of that data.

NIACRO opposes the fact that the policy retains data for unspecified offences and recordable offences. Data held for under 18’s who are convicted of unspecified offences is not in line with the United Nations Committee on the Rights of the Child (UNCRC)¹, and Youth Justice Review² recommendations.

3. Policy Proposal

The Department is proposing to amend Schedule 2 of the Criminal Justice Act (Northern Ireland) 2013 to apply the following maximum periods of retention to biometric material taken from individuals who have been convicted of an offence with a 75/50/25 proposal:

1. 75 years retention period for DNA and fingerprints for all convictions associated with serious violent, sexual and terrorism offences;
2. 25 years retention for 2 or more juvenile non-serious convictions which do not involve a custodial sentence of more than 5 years;
3. An under 18 conviction for a non-serious offence involving a custodial sentence of more than 5 years will attract a 50 years retention period.

There are two priorities that underpin NIACRO’s concerns about this policy proposal. Firstly, NIACRO has long called for a review of the Rehabilitation of Offenders (Northern Ireland) Order 1978. Specifically, to address the lengthy rehabilitation (spent) period, and to expand the filtering of records. The underlying principle of the legislation is that after a certain period, the conviction would no longer need to be declared. The department should keep a consistent approach to this retention policy and in line with the rehabilitation of offenders.

¹ General comment No. 24 (2019) on children’s rights in the child justice system GC/C/GC/ 24
https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f24&Lang=en

² Recommendation 21 (b)



75 years is *de facto* indefinite retention, given that fingerprints and DNA data will be held for the natural lifetime of the person convicted. 10 years is the longest rehabilitation period, with exception to sentences over 30 months in prison. NIACRO suggests that if the department must have a retention period for unspecified offences, it must not exceed the 10-year period where a record would no longer need to be declared. We urge the Department to reconsider these retention periods. Proposals should consider the balance of public safety and the protection of rights.

Secondly, NIACRO supports children and young people who are vulnerable to offending or have offended. We support them to make positive life choices and avoid risk-taking behaviours. Both the UNCRC and The Youth Justice Review recommend that at 18 years old, the young person's criminal record is wiped clean. NIACRO is supportive of the recommendations proposed. This policy should be cohesive alongside recommendations for those with convictions under 18.

4. Conclusion

NIACRO welcomes the opportunity to provide consultation to the Department of Justice consultation on proposals to amend legislation governing the retention of DNA and fingerprints in Northern Ireland.

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