1.0 Summary of Changes

1.1 This is a new joint policy for Essex Police and Kent Police dealing with the retention and disposal of Biometric samples (fingerprints and DNA) under the provisions of 63 Police and Criminal Evidence Act 1984 (as inserted by the Protection of Freedoms Act 2012).

1.2 It should be read and understood by all officers and staff that have dealings with individuals whose biometric samples have been taken on arrest or when reported.

2.0 What this Policy is About

2.1 The Protection of Freedoms Act 2012 introduced new legislation which largely requires the destruction of biometric samples taken from a person when arrested or reported for qualifying offences), but who are subsequently not prosecuted, or who are prosecuted but are unconvicted. This policy relates specifically to the powers inserted into Police and Criminal Evidence Act 1984 that allows police to apply to the Biometrics Commissioner (where a person has not been charged) or a Magistrates’ Court (either for an extension of the Biometrics Commissioner approval, or where a person is prosecuted but unconvicted, at the end of the normal period of retention) for retention of samples that would otherwise be destroyed.

2.2 The associated procedures attached to this policy outline the process to follow to effect retention of such samples in appropriate cases.

*Compliance with this policy and any linked procedures is mandatory.*

3.0 Statement of Policy

3.1 The retention of biometric samples must be considered by the officer in charge of every case where a person arrested or prosecuted for a qualifying offence is either not charged, or when person is charged but not but is not convicted. Consideration must be given to the operational benefits of retaining such samples, based on being able to provide ‘compelling’ reasons to believe that the retention of such samples may assist in the prevention or detection of crime, and showing that to do so would be proportionate.
4.0 Implications of the Policy

4.1 Finance / Staffing / Training / Other

4.1.1 Appropriate training should be included at all levels from recruit and probationer training

4.2 Risk Assessment(s)

4.2.1 There are no specific risk assessments associated with the procedures concerning biometric samples.

4.2.2 There are significant organisational risks relating to the reputation of both Essex Police and Kent Police and that would arise from a failure to effectively implement any procedure associated with this policy.

4.3 Equality Impact Assessment

4.3.1 An Equality Impact Assessment has been carried out and shows the proposals in this policy would have no potential or actual differential impact on grounds of race, ethnicity, nationality, gender, transgender, disability, age, religion or belief or sexual orientation.

5.0 Consultation

5.1 The following were invited to provide feedback in the consultation phase during the formulation of this document:

- Unison (Essex and Kent)
- Police Federation (Essex and Kent)
- Equality and Diversity Co-ordinator (Essex and Kent)
- Health & Safety (Essex and Kent)
- Strategic Change Team - (Essex)
- PSD Superintendent (Essex)
- Policy/Risk (Essex)
- Custody Manager (Essex)
- Forensic Services (Essex and Kent)
- Criminal Justice – (Essex)
- SCD (Essex and Kent)
- HR (Essex and Kent)
6.0 Monitoring and Review

6.1 The policy will be regularly monitored by Criminal Justice Department to ensure compliance with the procedures attached. Any cases where it is considered appropriate action should have been taken to retain samples that have been destroyed will be referred to (DCI) for appropriate review.

6.2 This policy will be reviewed every 2 years by, or on behalf, of the owner.

7.0 Related force policies or related procedures (Essex) / linked standard operating procedures (Kent)

- S 4501 Procedure – Biometric Samples, Retention and Disposal

8.0 Other source documents, e.g. Legislation, APP, partnership agreements (if applicable).

- Police and Criminal Evidence Act 1984 (s.63)
- Principles for Assessing Applications for Biometric Retention
- Applications for Biometric Retention – What You Should Know
- Notice of Application to Retain Biometric Material - Letter