

Our Ref: IM-FOI-2022-1968
Date: 24 October 2022



FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

I refer to your recent request for information which has been handled in accordance with the Freedom of Information (Scotland) Act 2002.

Please, first of all, accept my sincere apologies for the delay in providing a response to your request.

For ease of reference, your request is replicated below together with the response.

Please provide the following information regarding deaths during or following police contact for the 2021/2022 financial year:

1. Road traffic incident fatalities

The number of deaths of motorists, cyclists or pedestrians arising from police pursuits, police vehicles responding to emergency calls and other police traffic-related. It does not include deaths following a road traffic incident (RTI) where the police have attended immediately after the event as an emergency service

Prior to answering **questions 1-5** it should be noted Police Scotland or the Scottish Police Authority (SPA), as appropriate, have a legislative responsibility¹ to refer the circumstances of any serious incident involving a constable, member of police staff or member of the Authority's staff to the Crown Office and Procurators Fiscal Service (COPFS) or the Police Investigations & Review Commissioner (PIRC) for review, assessment and possible enquiry.

The definition of a serious incident includes:

- Any death whilst in police custody
- Any death following police contact, where it is considered that there may be contributable or causal factors on behalf of Police Scotland.
- Any police use of firearms and other weapons as specified in regulations.
- Any serious injury in police custody or following police contact.

Further information on Police Scotland referrals to the PIRC/COPFS, including the statutory roles and responsibilities of Police Scotland, COPFS and the PIRC in the event of a Police Scotland/SPA referral, or death following police contact, can be found at <https://pirc.scot/media/5374/mou-pirc-ps-spa.pdf>

A total of **2 referrals** were made to the Police Investigations and Review Commissioner (PIRC) during the period of 01/04/2021 – 31/03/2022 (inclusive) which related to a road traffic incident involving a police vehicle and that resulted in a fatality.

¹ Under the Police and Fire Reform (Scotland) Act 2012

2. Fatal shootings

The number of deaths where police officers fired the fatal shot using a conventional firearm

Please provide a breakdown by ethnicity (white, Asian, black, mixed, other or not known)

The term “conventional firearm” is interpreted as “*a lethal barrelled weapon from which any shot, bullet or other missile can be discharged*”.

No referrals (0) were made to the Police Investigations and Review Commissioner (PIRC) or COPFS during the period of 01/04/2021 – 31/03/2022 (inclusive) in relation to the police discharge of a conventional firearm which resulted in a fatality.

3. Deaths in or following police custody

The number of deaths in or following police custody, This includes deaths that occur while a person is being arrested or taken into detention. It includes deaths of persons who have been arrested or have been detained by police under the Mental Health Act 1983. The death may have taken place on police, private or medical premises, in a public place or in a police or other vehicle. For example: Deaths that occur during or following police custody where injuries that contributed to the death were sustained during the period of detention, deaths that occur in or on the way to hospital (or other medical premises) following or during transfer from scene of arrest or police custody, deaths that occur as a result of injuries or other medical problems that are identified or that develop while a person is in custody.

4. Apparent suicides following police custody

The number of apparent suicides that occur within two days of release from police custody. It also includes apparent suicides that occur beyond two days of release from custody, where the period spent in custody may be relevant to the subsequent death

A total of **2** deaths in police custody were referred to the Police Investigations and Review Commissioner (PIRC) or COPFS during the period of 01/04/2021 – 31/03/2022 (inclusive).

Please also note a total of 248 files relating to deaths following police contact were recorded during the period of 01/04/2021 – 31/03/2022 inclusive; this includes both referrals to the PIRC and non-referrals.

As you may be aware the current cost threshold is £600 and I estimate that it would cost well in excess of this amount to process your request.

By way of explanation, to ascertain whether any deceased had been in police custody prior to their death would require the manual review of each file.

With a conservative estimate of 10 minutes per review, it is assessed a fuller answer to this question would exceed the cost limits set out in Section 12(1) of the Freedom of Information Act (Scotland) 2002.

5. Other deaths following police contact

The number of deaths that follow contact with the police, either directly or indirectly, that did not involve arrest or detention under the Mental Health Act 1983 and were subject to an independent investigation by the IOPC.

A total of 248 files relating to deaths following police contact were recorded during the period of 01/04/2021 – 31/03/2022 inclusive; this includes both referrals to the PIRC and non-referrals.

As explained above, to ascertain whether any person had been in police custody prior to their death whilst discounting arrest or detention under mental health legislation, would require a manual review of each file.

With a conservative estimate of 10 minutes per review, it is assessed that the costs associated with provision of this data would exceed the cost limits set out in Section 12(1) of the Freedom of Information Act (Scotland) 2002.

Please also note that the Independent Office of Police Conduct (IOPC) does not have jurisdiction to investigate incidents involving policing bodies within Scotland. The corresponding body within Scotland is the Police Investigations and Review Commissioner (PIRC) [Home | Police Investigations & Review Commissioner \(PIRC\)](#).

1-5: Please provide a breakdown by ethnicity (white, Asian, black, mixed, other or not known)

It should be noted that ethnicity and other demographic data is not routinely recorded on the police complaints database or on the relevant referral documentation and, as such in terms of Section 17 of the Freedom of Information (Scotland) Act 2002, this represents a notice that the information you seek is not held by Police Scotland.

Should you require any further assistance please contact Information Management - Dundee at foidundee@scotland.police.uk quoting the reference number given.

If you are dissatisfied with the way in which Police Scotland has dealt with your request, you are entitled, in the first instance, to request a review of our actions and decisions.

Your request must specify the matter which gives rise to your dissatisfaction and it must be submitted within 40 working days of receiving this response - either by email to foi@scotland.police.uk or by post to Information Management (Disclosure), Police Scotland, Clyde Gateway, 2 French Street, Dalmarnock, G40 4EH.

If you remain dissatisfied following the outcome of that review, you are thereafter entitled to apply to the Office of the Scottish Information Commissioner within six months for a decision. You can apply [online](#), by email to enquiries@itspublicknowledge.info or by post to Office of the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS.

Should you wish to appeal against the Office of the Scottish Information Commissioner's decision, there is an appeal to the Court of Session on a point of law only.

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As part of our commitment to demonstrate openness and transparency in respect of the information we hold, an anonymised version of this response will be posted to the Police Scotland Freedom of Information [Disclosure Log](#) in seven days' time.

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