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Our Ref: IM-FOI-2022-1933
Date: 14th 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.

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

Under the Freedom of Information (Scotland) Act 2002, I would like to know how many people were arrested in Edinburgh between September 11 and September 13 2022 in connection with public order offences. For each incident, please tell me:

- **The location of the offence (in as much detail in possible)**
- **The time and date of the offence**
- **The specific type of public order offence, eg breach of the peace**
- **The nature of the offending act (please provide any summary of the incident recorded by the arresting officer)**
- **Whether the offence was related or suspected to be related in any way to events concerned with the Queen's death (whether the procession of her coffin or Royal Family through Edinburgh, her lying in state in St Giles cathedral, the new King's Proclamation, or any other ceremonial event)**
- **Whether the arrested person was subsequently charged**

The incident reference number of the offence

In 2018, the Criminal Justice (Scotland) Act 2016 removed the separate concepts of arrest and detention and replaced them with a power of arrest without warrant - where there are reasonable grounds for suspecting a person has committed, or is committing, an offence.

When a person is arrested, a statement of arrest should be read over as soon as reasonably practical and details recorded in the arresting officer's notebook.

A person is 'Not Officially Accused' (a suspect) when arrested *and not* cautioned and charged. They are 'Officially Accused' once arrested *and* cautioned and charged. *If* conveyed to a police station, the arrested person (of either classification) will have their details recorded in the Police Scotland National Custody System.

The Act however also provides for certain situations whereby a person must be released from police custody *prior* to their arrival at a police station - effectively allowing the police to 'de-arrest' that person where the reasonable grounds for suspicion no longer exist. In those circumstances, the details of an arrested person are not held electronically.

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As a result, we are unfortunately unable to collate comprehensive arrest data as case by case assessment of all officer notebooks would be required - in addition to the *partial* arrest data held in the National Custody System.

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. As such, and in terms of Section 16(4) of the Freedom of Information (Scotland) Act 2002 where Section 12(1) of the Act (Excessive Cost of Compliance) has been applied, this represents a refusal notice for the information sought.

In order to be of some assistance however, please find below a breakdown of crime reports that were created in Edinburgh during the time period you have requested namely 11th September 2022 to 13th September inclusive. As you have asked specifically for public order offences, a search for offences of Breach of the Peace and Section 38 Criminal Justice & Licensing (Scotland) Act 2010 (Threatening or Abusive Behaviour) was conducted

I would emphasise that these are based on the date the report was created on our crime system and therefore an incident that took place prior to the period requested but where the crime report was entered during the period will be included. Likewise, an incident that occurred during the period requested but where a crime was created on our system after this period, would not be included. They should not be taken as a comprehensive view of crimes that took place within the dates requested.

Finally, please note that the information below is correct as of 22nd September 2022 and that crime statistics are dynamic and are subject to change as new information comes to light.

- **The location of the offence (in as much detail in possible)**

Location	Number
Edinburgh North East – ED	3
Edinburgh North West – EN	2
Edinburgh South East – EC	8
Edinburgh South West - ES	2

- **The time and date of the offence**

Date	Number
11 th September 2022	7
12 th September 2022	5
13 th September 2022	3

Time	Number
08:00	1
09:30	1
12:00	1
13:00	1
14:30	1
14:50	1

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15:20	1
18:00	3
19:40	1
20:30	1
20:44	1
22:50	1
23:30	1

- **The specific type of public order offence, eg breach of the peace**

Type Of Offence	Number
Breach of the Peace	3
Threatening or Abusive Behaviour	12

- **The nature of the offending act (please provide any summary of the incident recorded by the arresting officer)**

Whilst the response to your request is overall an exemption under Section 16(4) of the Freedom of Information (Scotland) Act 2002 where Section 12(1) of the Act (Excessive Cost of Compliance) has been applied, had the request been possible, the following exemption would have applied to this question.

In relation to the nature/summary of the incident/offending Act In terms of section 16 of the Freedom of Information (Scotland) Act 2002, I am refusing to provide you with the requested information

Section 16 requires Police Scotland when refusing to provide such information because it is exempt, to provide you with a notice which:

- (a) states that it holds the information,
- (b) states that it is claiming an exemption,
- (c) specifies the exemption in question and
- (d) states, if that would not be otherwise apparent, why the exemption applies.

I can confirm that Police Scotland holds the information that you have requested.

The exemption that I consider to be applicable to the information requested by you is section 38(1)(b) - Personal Data.

Personal data is defined in Article 4 of the General Data Protection Regulation (GDPR) as:

'Information relating to an identified or identifiable natural person ("data subject"); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person'

Section 38(2A) of the Act provides that personal data is exempt from disclosure where disclosure would contravene any of the data protection principles set out at Article 5(1) of the GDPR which states that:

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'Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject'

Article 6 of the GDPR goes on to state that processing shall be lawful only if certain conditions are met.

The only potentially applicable condition is set out at Article 6(1)(f) which states:

'Processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child'

Whilst I accept that you may have a legitimate interest with regards the disclosure of this information and that disclosure may well be necessary for that purpose, I am nonetheless of the view that those interests are overridden by the interests or fundamental rights and freedoms of the data subject.

On that basis, it is my view that disclosure of the information sought would be unlawful.

- **Whether the offence was related or suspected to be related in any way to events concerned with the Queen's death (whether the procession of her coffin or Royal Family through Edinburgh, her lying in state in St Giles cathedral, the new King's Proclamation, or any other ceremonial event)**

This question has been dealt with separately below.

- **Whether the arrested person was subsequently charged**

I can confirm that 10 persons were arrested and charged. I would however point out that the other 5 enquiries are still ongoing at present.

The incident reference number of the offence

2 of the crimes recorded do not have an incident number recorded. Whilst the response to your request is overall an exemption under Section 16(4) of the Freedom of Information (Scotland) Act 2002 where Section 12(1) of the Act (Excessive Cost of Compliance) has been applied, had the request been possible, the following exemption would have applied to these two crimes. In terms of Section 17 of the Freedom of Information (Scotland) Act 2002, this represents a notice that the information requested is not held by Police Scotland.

In relation to the 13 other crimes recorded, please find the requested information below.

PS-20220908-1553
PS-20220908-3361
PS-20220910-3239
PS-20220910-3239
PS-20220910-3239
PS-20220910-4681

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PS-20220911-1083
PS-20220911-1651
PS-20220911-2446
PS-20220911-3553
PS-20220912-3525
PS-20220912-3889
PS-20220913-0751

Finally, due to the nature of the events held in regards to the Death of the Queen, arrest figures were separately recorded. For these events only, please find the information we hold below. It does however not cover all of the questions asked and I would emphasise that they should not be compared with the figures provided previously within this response.

As of 20th September 2022, 6 arrests were made during the period requested for public order offences, namely Breach of the Peace and Section 38 Criminal Justice & Licensing (Scotland) Act 2010 (Threatening or Abusive Behaviour). I would point out that crime statistics are dynamic and are subject to change as new information comes to light.

5 were in or in the immediate vicinity of the Royal Mile. 1 was within Holyrood Park.

5 were for Section 38 Criminal Justice & Licensing (Scotland) Act 2010 (Threatening or Abusive Behaviour). 1 was for Breach of the Peace

All 6 were arrested and charged.

Should you require any further assistance please contact Information Management 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, Dalarnock, 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.

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.