

Our Ref: IM-FOI-2022-1192
Date: 22nd June 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.

1) Whether Police Scotland takes a DNA sample of everyone who they formally charge of a crime or offence.

Please be advised that the requested information is publicly available.

As such, in terms of Section 16 of the Freedom of Information (Scotland) Act 2002, I am refusing to provide you with the information sought. 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 and the exemption that I consider to be applicable is set out at Section 25(1) of the Act - information otherwise accessible:

“Information which the applicant can reasonably obtain other than by requesting it under Section 1(1) is exempt information”

I can confirm that the information requested is available within our DNA Sampling and Retention Standard Operating Procedure. I have attached a direct link to the relevant document below:

<https://www.scotland.police.uk/spa-media/tvubokmj/dna-sampling-and-retention-sop.pdf>

2) Where Police Scotland does take a DNA sample of a suspect, how long DNA profiles are stored for.

Section 18H of the Criminal Procedure (Scotland) Act 1995 is the primary piece of legislation relative to DNA data retention in Scotland. Samples and relevant physical data shall be retained and recorded as “pending” until the associated case (or investigation) is

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concluded by the Police, Crown Office and Procurator Fiscal Service (COPFS), Scottish Children's Reporter Administration (SCRA) or the Scottish Court Service (SCS). The retention periods of samples and relevant physical data shall be determined by the disposal of the case for which they were taken.

There is no legal requirement to delete Criminal Justice DNA for convicted cases, however a review is undertaken when the subject reaches 100 years of age. In the event of proceedings being dropped or a non-finding of guilt, Criminal Justice DNA data will weed unless taken for a prescribed sexual or violent offence. In this instances, powers exist to retain the data for a period of 3 years (which can be extended by a further rolling 2 year period upon application to a Sheriff). In the event of death, Criminal Justice DNA Data will weed after 3 years (if Police Scotland are notified).

I have included a link to the relevant legislation below should you wish to make further enquiries:

<https://www.legislation.gov.uk/ukpga/1995/46/contents>

3) What criteria Police Scotland apply for the decision to take a DNA sample of a suspect.

As per my answer to question 1, this information is available within our DNA Sampling and Retention Standard Operating Procedure and I would direct you to the exemption and link provided in this regard.

4) How many DNA samples Police Scotland have taken of suspects in the financial years of 2018-19, 2019-20, 2020-21 and 2021-22.

Following a clarification request you confirmed that "By suspect I mean all those who are arrested and charged".

Unfortunately Police Scotland do not record this information on the DNA Database broken down to this level, i.e. to those who were both arrested and charged. As such, 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.

If it is of some assistance, we do recorded the number of Criminal Justice DNA samples taken from arrested persons and this information is published on the Scottish Police Authority website. I have included a link below to the current years statistics as well as to the page which hosts previous years data:

<https://www.spa.police.uk/spa-media/zwcblaa4/pdf-20220706-scottish-dna-database-stats-may-2022.pdf>

<https://www.spa.police.uk/forensic-services/dna/historic-dna-database/>

5) If possible, the total number of unique suspects Police Scotland have recorded for any crime or offence in the financial years of 2018-19, 2019-20, 2020-21 and 2021-22.

Following a clarification request you confirmed that "By suspect I mean all those who are arrested and charged"

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In response to your request, I regret to inform you that I am unable to provide you with the information you have requested, as it would prove too costly to do so within the context of the fee regulations.

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.

By way of explanation, Police Scotland currently does not have a single crime recording system and uses the systems that were in place within the legacy forces that went to make up Police Scotland. Whilst we do have a central database (SEB-P), due to the limitations of this central database it is not possible for the information you have requested to be extracted from it. The request would have to be sent to each of the 13 police divisions within Police Scotland.

Each system would need to be manually checked, a check run to confirm they did not hold a duplicate record on the individual system, each offence recorded for the individual checked to confirm which records related to charges reported rather than simply those given for example a fixed penalty ticket and then cross-referenced with the other systems to confirm instances where a suspect was truly unique. As you have asked for those arrested and charged, this would be further complicated by the need to eliminate those who were reported to the Crown and Procurator Fiscal Service directly without prior arrest/charge if they were unable to be traced prior to report etc. This is a task that would take a large amount of time to complete.

Whilst it is difficult to estimate the time it would take to complete this due to the scale of the task required and due to the large number of nominal records held by Police Scotland, I would estimate that conservatively, thousands of hours of work would be required.

Police Scotland have assessed that the £600 cost limit within the Act equates to 40 hours of work and so this part of your request would breach the cost threshold.

Having discussed the matter with our Analytical Unit to confirm if there was anyway, if this request was refined, it could this be answered within cost. However, they advised the main reason this would not be possible is that we do not yet have a central data repository for nominal data and they could not be certain that all the legacy crime recording systems would identify and link a potential suspect to a specific crime.

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

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foi@scotland.pnn.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.

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.