

Our Ref: IM-FOI-2022-0036
Date: 2 February 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.

“In August 2021 a new County Lines marker was placed on the Police National Computer (PNC) and officers encountering individuals or progressing information or intelligence where it is identified that an individual is at risk of exploitation by County Lines related crime must generate a PNC information marker. This process will bring Scotland into line with the rest of the UK.”

***(Source: Police Scotland Quarter Two Performance Report 2021/22,
<https://www.scotland.police.uk/spa-media/oifbto5z/q2-performance-report-ppc.pdf>)***

I'd therefore like to receive the following information.

- 1. Since the County Lines marker has been used by Police Scotland, how many people have been identified as being at risk of exploitation?***
- 2. How many of them are marked as children?***
- 3. How many of them are care experienced/ flagged as being in care?***
- 4. Can you provide a breakdown of people flagged by location, by age and by gender.***

I would ask that you note that the PNC database is not managed by Police Scotland nor is the information thereon owned by the Service. PNC Hendon are the owners of this information.

If Police Scotland request a marker, including county lines marker, to be added to PNC they are required to complete an operational information report on the Criminal Justice Services Division (CJSD) portal.

Requests are only stored on the portal for a 2 month period before falling off, therefore CJSD staff could not access any requests older than 2 months.

Accordingly, in relation to information added more than 2 months ago, Police Scotland do not hold information in the format requested. In terms of Section 17 of the Act, this letter represents a formal notice that information is not held in the format requested.

With regards to extracting information held on the CJSD portal for the last 2 months it would take in excess of 40 hours to extract this information and in accordance with Sections 12(1) (Excessive cost of compliance) and 16(4) (Refusal of request) of the Freedom of Information (Scotland) Act 2002 (the Act), this letter represents a Refusal Notice.

By way of explanation, to extract the requested information CJSD staff would need to access their portal and carry out a physical examination of every individual ticket raised and see if that particular request relates to county lines. CJSD would then need to check free text section to obtain specific information relating to the individual, geographic location etc. This would information would then need to be passed to another department to be cross checked with data held on PNC.

5. For the past five years, the National Crime Agency say they have asked police forces to submit returns on county lines activity in their area. Could Police Scotland please provide any returns relating to County Lines submitted to the National Crime Agency in the past five years.

Returns submitted to the National County Lines Coordination Centre (NCA) includes personal information, operational information and other sensitive information. 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.

The relevant exemptions in this case are:

Section 35 (1) (b) – Law Enforcement

The information requested is exempt, as its disclosure would or would be likely to prejudice substantially the prevention or detection of crime and apprehension or prosecution of offenders.

Release of the information would adversely impact on the operational effectiveness of the Service and compromise any tactical advantage the police may have.

This is a non-absolute exemption and requires the application of the Public Interest Test.

Section 39 (1) – Health, Safety and the Environment

The information requested is exempt as its disclosure would or would be likely to endanger the physical health or safety of an individual(s). Disclosure would allow those intent on committing crime or causing disorder to gauge the likelihood of detection or to take measures to negate the likelihood of detection. This would leave members of the public at an increased risk of being the victim of crime, unruly or intimidating behaviour and jeopardise wider community safety.

This is a non-absolute exemption and requires the application of the Public Interest Test.

Public Interest Test

It is accepted that there is a public interest in the disclosure of the information on the basis that it could lead to greater transparency and public debate.

That said the withheld material could reveal specific operational information. Any such release would either compromise or significantly weaken police tactics enabling individuals or groups to become aware of such strategies and find ways to circumvent them.

It is reasonable to expect Police Scotland to ensure that all information held is managed effectively and where necessary, be cautious as to the level of detail released into the public domain.

Despite accountability being a factor for release, the need to ensure that the Police can keep the public safe, maintain community confidence and minimise crime are more compelling factors for non-disclosure as providing the information would compromise the effective delivery of operational law enforcement.

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:

'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'

I understand that you may have a legitimate interest with regards the disclosure of this information I do not accept that disclosure is necessary for that purpose.

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Further, I am of the view that any 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.

Finally, you may be interested in the annual NCA intelligence assessments which are available online:

www.nationalcrimeagency.gov.uk/what-we-do/crime-threats/drug-trafficking/county-lines

Should you require any further assistance please contact Information Management - Glasgow at – foi@scotland.pnn.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.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.