| Police Scotland logo | Freedom of Information ResponseOur reference: FOI 24-0511Responded to: 21 March 2024 |
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Your recent request for information is replicated below, together with our response. Please accept my apologies for the delay in responding.

## Please could you provide answers to the following questions:

## Annie was reported dead on the beach at 8:23 on Sunday 04 December 2005 and was attended by two policemen from Kilmarnock police station.

## What actions were taken to secure the site as a possible crime scene?

## On what basis was it decided that the death did not represent a crime?

## Who was the SIO?

## Did a pathologist attend the site?

## Annie’s body was collected from the hospital mortuary once the autopsy had been concluded – what date was the body surrendered to a third party and what was the name of the third party responsible for the transport of the body to London and thence on to Sweden?

## Please provide documentary evidence of this transfer.

## Annie’s body was repatriated to Sweden - her hair – long to her waist according to our witness, had been cropped to within 5cm of her scalp: please confirm that her hair would not have been cut by the pathologist at Crosshouse hospital.

## On what basis did the police determine that no crime had been committed and that Annie’s death was a ‘tragic accident’, a ‘suicide’?

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.

The exemptions that I consider to be applicable to the information requested by you are as follows:

**Section 34(2) (b) (ii) – Investigations by Scottish public authorities**

Information is exempt information if held at any time by a Scottish public authority for the purposes of any other investigation being carried out – (ii) for the purpose of making a report to the procurator fiscal as respects, the cause of death of a person.

Consequently, the information requested falls within this class-based exemption.

This is a non-absolute exemption and requires the application of the public interest test**.**

**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.*

Whilst I accept that you may have a legitimate interest with regards the disclosure of the SIO 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(s). On that basis, it is my view that disclosure of the information sought would be unlawful.

**Section 39(1) – Health, safety and the environment**

Information is exempt information if its disclosure under this Act would, or would be likely to, endanger the physical or mental health or the safety of an individual.

Whilst I appreciate the reasons why you might wish this information, I also have to consider the wider implications of the public release of such a document as a release of information under this Act is, essentially, a release of such sensitive information into the public domain.

This is a non-absolute exemption and requires the application of the public interest test.

**Public Interest Test**

It could be argued that disclosure of the requested information would provide accountability and satisfaction to the public that the investigation was conducted properly by the police service.

I would however contend that as the information was gathered for the purposes of an investigation, the interests of third parties would be affected and the information attracts multiple exemptions then the public interest test favours retention of the information requested.

## Were Annie’s hands wrapped as a standard procedure in forensic investigations?

## Only one type of diatom was found in Annie’s bone marrow which was a freshwater diatom but no record was made of any marine diatoms despite the fact that the police narrative was ‘suicide’.

## Please can you explain why there would be approximately 1,000,000 marine diatoms per 1 litre of water had Annie drowned in the sea but the pathology report has no record of any in the body of the report?

## We have an affidavit from the undertaker in Sweden. Annie’s body showed significant bruising to her torso, the side of her head and compression marks to her shoulders indicating that she had been held down : only a partial  record of this bruising is made in the report – WHY?

## There is no record of a full FORENSIC pathology report  - significantly more detailed than a ‘standard pathology’ report. Why was there no forensic examination of Annie’s body?

In terms of the Freedom of Information (Scotland) Act 2002, I am refusing to confirm or deny whether the above requested information exists or is held by Police Scotland in terms of section 18 of the Act.

Section 18 applies where the following two conditions are met:

It would be contrary to the public interest to reveal whether the information is held

Whilst we accept that you may have a particular personal interest in being informed as to whether or not the information sought is held, the overwhelming public interest lies in protecting individuals’ right to privacy and the expectation of confidence that the public have in Police Scotland as regards their information.

Ifthe information was held, it would be exempt from disclosure in terms of one or more of the exemptions set out in sections 28 to 35, 38, 39(1) or 41 of the Act

In this instance, sections 38(1)(b) and 38(1)(2A) of the Act apply insofar as you have requested third party personal data which is exempt from disclosure where it is assessed that disclosure would contravene the data protection principles as defined in the Act.

In addition, if held, section 34(1) (b) would also apply given any information held would be held for the purposes of an investigation, conducted by the authority.

**This should not, however, be taken as conclusive evidence that the information you have requested exists or does not exist.**

If you require any further assistance, please contact us quoting the reference above.

You can request a review of this response within the next 40 working days by email or by letter (Information Management - FOI, Police Scotland, Clyde Gateway, 2 French Street, Dalmarnock, G40 4EH). Requests must include the reason for your dissatisfaction.

If you remain dissatisfied following our review response, you can appeal to the Office of the Scottish Information Commissioner (OSIC) within 6 months - [online](http://www.itspublicknowledge.info/Appeal), by email or by letter (OSIC, Kinburn Castle, Doubledykes Road, St Andrews, KY16 9DS).

Following an OSIC appeal, you can appeal to the Court of Session on a point of law only.

This response will be added to our [Disclosure Log](http://www.scotland.police.uk/access-to-information/freedom-of-information/disclosure-log) in seven days' time.

Every effort has been taken to ensure our response is as accessible as possible. If you require this response to be provided in an alternative format, please let us know.