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Our Ref: IM-FOI-2022-0289
Date: 22 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.

Trans woman Mridul Wadhwa, of Edinburgh Rape Crisis Centre, was quoted in The Times on Saturday, January 29, 2022, as saying “Since 2019, I have reported hate to the police more times than I can count. No charges no convictions”.

1. I would be grateful if you could provide the exact number of hate crime complaints Wadhwa has made to Police Scotland since 2019. As this is a person with a high public profile and who has themselves averred publicly to their high number of complaints, there can be no question that it is not in the public interest to confirm them. Neither can it be held to be a breach of privacy. They have introduced the issue to the general public.

2. On how many occasions did these complaints lead to Police Scotland formally investigating and questioning those alleged to have committed the hate crimes?

3. On how many occasions did these specific complaints lead to charges?

In response to questions one, two and three, having considered your request for information on specific investigations, in terms of the Freedom of Information (Scotland) Act 2002, I am refusing to confirm or deny whether the information sought 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.

- If the information was held, it would be exempt under the following sections of the Act:

- Section 34 (1) - Investigations
- Section 35 (1)(a) and (b) – Law Enforcement

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- Section 38 (1)(b) – Third Party Personal Data

To disclose whether or not information was held would confirm whether or not the individual referred to was in some way known to Police Scotland.

If any information were held, it would be held for the purpose of an investigation and disclosure of such information would prejudice the prevention and detection of crime and the apprehension or prosecution of offenders.

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

4. There has been a reported 76 per cent increase in reported crimes to Police Scotland in which the transgender issue was the aggravating factor. How many of these led to charges?

By way of response I have provided the number of recorded and detected crimes that have a transgender aggravator.

Within the tables recorded crime and detected crime statistics have been provided. For offences identified as Hate Crimes where a crime has been detected, charges will have been brought against the perpetrator.

It is worthy of note that Police Scotland does not record the actual trans-status of individuals. The crimes recorded with a transgender aggravation relates to the alleged perpetrator's perception(s) about their victim. A crime may be recorded as transgender aggravated whether or not the victim actually identifies with this people group.

Number of Recorded and Detected Transgender crimes: Police Scotland				
Period: 1st January 2019 to and inclusive of 24th February 2022				
	Year			
	2019	2020	2021	2022
Recorded	104	85	128	16
Detected	57	45	66	6
All statistics are provisional and should be treated as management information. All data have been extracted from Police Scotland internal systems and are correct as at 25/2/2022.				
1. The number of unique crimes that have a Transgender aggravator.				
<i>Police Scotland does not retain any information for statistical purposes once a record has been weeded from iVPD. When a record is weeded, it is removed from the system, and there is no retention of data outside the weeding and retention policy. Please note, the weeding and retention policy states that if a person is recorded as "no concern / not applicable" then this will only be retained for 6 months.</i>				
<i>Please note that these data are collated from the Police Scotland iVPD system, which has an automated weeding and retention policy built on to it. A copy of the retention policy is available on the Police Scotland internet site.</i>				

5. Does Police Scotland investigate every allegation of hate crime or does it apply any test to establish if the allegation has any merit or is instead vexatious?

Police Scotland defines a **hate crime** as, ‘any crime which is perceived by the victim or any other person, to be motivated (wholly or partly) by malice and ill-will towards a social group.’

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Social groups are identified in accordance with the Lord Advocates guidelines on Aggravations of Offences against Prejudice i.e. race, sexual orientation, religion/faith, disability or transgender identity.

Please be advised that information regarding how Police Scotland investigates crime 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”

The information you are seeking is available within the Scottish Crime Recording Standard and the Hate Crime National Guidance document, I have attached the relevant links to the documents below.

<https://www.scotland.police.uk/spa-media/p0nfjj2c/scottish-crime-recording-standard-crime-recording-and-counting-rules-april-2021.pdf?view=Standard>

<https://www.scotland.police.uk/access-to-information/policies-and-procedures/guidance-documents/guidance-documents-g-i/>

6. How many complaints and ensuing investigations have been from gender critical women on the receiving end of rape threats and other threats of violent assault from trans allies in the past two years?

In terms of Section 17 of the Act, I can confirm that the information you seek is not held by Police Scotland.

By way of explanation, I can advise that Police Scotland do not record data relating to the political status or philosophical views of individuals.

7. What was the length of time between the hate crime alleged against Nicola Murray, of the Brodies Trust, and two police officers visiting her at her home in November?

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8. Why did two officers from Edinburgh visit Ms Murray on November 4 last year yet inform her that despite them taking the time to visit and question her, “there was no crime here”?

9. When did Police Scotland begin questioning people about their “thinking behind making your statement” and how can this possibly be justified in a free speech democracy?

In response to questions seven, eight and nine please see the response to questions one, two and three.

10. Does Police Scotland actively investigate every home invasion, burglary and street robbery? What is Police Scotland’s stated policy for investigating home burglaries and street robberies? Do officers visit and interview homeowners and victims and actively investigate in these circumstances or are they simply issued with an incident number for insurance purposes where losses have occurred?

In response to this question, please see the response to question five. The information you seek is contained within the Scottish Crime Recording Standard which is linked above.

11. If someone is repeatedly making hate crime allegations without merit and which do not warrant investigation are they given any advice for example that it is not a crime to feel offended?

To provide some general context the following has been taken from the Hate Crime National Guidance document, a link has been provided within the response to question 5.

Police Scotland defines a **hate incident** as ‘*any incident which is perceived by the victim or any other person to be motivated (wholly or partly) by malice and ill-will towards a social group but which does not constitute a criminal offence.*’

Police Scotland defines a **hate crime** as, ‘*any crime which is perceived by the victim or any other person, to be motivated (wholly or partly) by malice and ill-will towards a social group.*’

Social groups are identified in accordance with the Lord Advocates guidelines on Aggravations of Offences against Prejudice i.e. race, sexual orientation, religion/faith, disability or transgender identity.

Therefore, I can advise that there is legislation in place for wasting police time if an individual were to make continuous false allegations, however each incident is investigated separately and takes into consideration the individual’s perception as mentioned above.

12. How many transgender people were the victims of physical assault, sexual or otherwise, in the past two years?

In terms of Section 17 of the Act, I can confirm that the information you seek is not held by Police Scotland.

By way of explanation, I can advise that Police Scotland does not record the trans status of victims of crime. Individuals can advise officers of their chosen gender identity.

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13. How many women, and for the avoidance of doubt by that I mean, biological females, have been the victims of physical assault, sexual, domestic or otherwise, in the past two years?

In terms of Section 17 of the Act, I can confirm that the information you seek is not held by Police Scotland.

By way of explanation, I can advise that Police Scotland does not record the biological status of victims. Individuals can advise officers of their chosen gender identity.

14. Police Scotland has said it is unable to cope with the huge increase in the number of hate crime reports and that it would not be able to comply fully with the Hate Crime Bill “until next year”. (Source The Times, January 29, Page 11).

– What will be the difference next year? What is happening that will enable Police Scotland to better cope with the increase in hate crime reports? Is recruitment being increased; are resources being reallocated; is hate crime being elevated in priority above other crimes?

In terms of Section 17 of the Act, I can confirm that the information you seek is not held by Police Scotland.

By way of explanation, I must advise that Police Scotland have not made any statement to the press that there are concerns regarding volume of Hate Crimes and the organisation’s inability to cope.

I believe that the information referred to within the article you mentioned may have been gathered from the report linked below. I bring your attention specifically to page 73 where it states *“Police Scotland have requested to not fully comply with Sec 15 of the Act (provide ministers with fully disaggregated data) until the new COS system is in place, which we expect will be in 2023.”* This is due to the introduction of a new IT system at the same time as the introduction of the new legislation.

<https://www.scotland.police.uk/spa-media/oifbto5z/q2-performance-report-ppc.pdf>

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.

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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.