

09/02/2015

Our Ref: IM-FOI-2015-0080



Sir Stephen House QPM  
Chief Constable

FOI Central Processing Unit  
173 Pitt Street  
Glasgow  
G2 4JS

[foi@scotland.pnn.police.uk](mailto:foi@scotland.pnn.police.uk)

**FREEDOM OF INFORMATION (SCOTLAND) ACT 2002**

**SUBJECT: Information contained in Standard Operating Procedures**

I refer to your letter dated 10/01/2015 regarding the above which has been handled in accordance with the Freedom of Information (Scotland) Act 2002 (FOISA).

**QUESTION**

Pursuant to the general right of access contained within the Freedom of Information (Scotland) Act 2002 I request the following information from the Chief Constable of the Police Service of Scotland:

All of the information contained within the current force Standard operating Procedures covering

- (a) Custody
- (b) Public Order
- (c) The driving of police vehicles (both marked and unmarked vehicles, and including those covering response driving and tactical/pursuit driving)
- (d) Sexual Offences Investigations
- (e) Investigations involving suspects, complainers, witnesses and evidence located outside of Scotland.

## RESPONSE

### Question 1a

Please see attached a redacted version of the Care and Welfare of Persons in Police Custody Police Standard Operating Procedures (SOP). Specific parts of the document are considered to be exempt in terms of the Freedom of Information (Scotland) Act 2002 (the Act). Section 16 of the Act requires Police Scotland 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. Where information is considered to be exempt, this letter serves as a Refusal Notice that information is held and an explanation of the appropriate exemption is provided below.

- **Section 30 (c) – Prejudice to Effective Conduct of Public Affairs**

To clarify, parts of section 7:10:1, 7:10:2, 8:1:9 & Appendix 'F' have been redacted under Section 30.

### Question 1b

Please see attached a redacted version of the Public Order SOP. Specific parts of this document are considered to be exempt in terms of the Freedom of Information (Scotland) Act 2002 (the Act). Section 16 of the Act requires Police Scotland 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. Where information is considered to be exempt, this letter serves as a Refusal Notice that information is held and an explanation of the appropriate exemption is provided below.

- **Section 35(1)(a)&(b) – Law Enforcement**
- **Section 30 (c) – Prejudice to Effective Conduct of Public Affairs**

To clarify, please note that part of sections 1.3 and appendix 'M' have been redacted under Section 30. Information has been removed under Section 35 are as follows; 6.3, 6.4, 7.4, 7.5, 7.12, 18.1, 18.3, 20.1.3, 20.2.2, 20.2.3, 20.3.4, 20.4.3, 20.5.5, 20.5.14, 20.6.4, 20.7.9 & 20.8.7.

### Question 1c

Please see attached a redacted version of the Driver Training and Standards Vehicle Safety Checks SOP and the vehicle pursuits SOP. Specific parts of this document are considered to be exempt in terms of the Freedom of Information (Scotland) Act 2002 (the Act). Section 16 of the Act requires

Police Scotland 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. Where information is considered to be exempt, this letter serves as a Refusal Notice that information is held and an explanation of the appropriate exemption is provided.

- **Section 30 (c) – Prejudice to Effective Conduct of Public Affairs**
- **Section 35(1)(a)&(b) – Law Enforcement**

To clarify, please note that the Vehicle Pursuit SOP has had the following sections redacted; 8.5 under Section 30.

Further to this, the Driver Training and Standards SOP had the following sections redacted; 11.3, 12.2, 12.3 & 35.6.3 under Section 35.

#### **Question 1d**

Your request for the information contained within the Sexual Investigations SOP has been considered however this document is marked as restricted and not suitable for release into the public domain. This information is exempt in terms of the Freedom of Information (Scotland) Act 2002 (the Act). Section 16 of the Act requires Police Scotland to provide you with a notice which: (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. Where information is considered to be exempt, this letter serves as a Refusal Notice regarding the release of the information held and an explanation of the appropriate exemption is provided below.

- **Section 35(1)(a)&(b) – Law Enforcement**

#### **Question 1e**

Please see attached a redacted version of the Crime Investigation SOP. Specific parts of this document are considered to be exempt in terms of the Freedom of Information (Scotland) Act 2002 (the Act). Section 16 of the Act requires Police Scotland 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. Where information is considered to be exempt, this letter serves as a Refusal Notice that information is held and an explanation of the appropriate exemption is provided below.

- **Section 35(1)(a)&(b) – Law Enforcement**

To clarify, parts of the following sections have been redacted; 6.8.1, 8.2.1, 8.3, 8.4.1, 8.5.2, 8.8.1-3, 8.10.2, 10.3, 13.1-3, 14.1, 15, 22, 24.1, 25.2-3, 26.1-6 & Appendix 'F',

## **Evidence of Harm and Public Interest test**

### **Section 35(1)(a)&(b) – Law Enforcement**

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

In the course of dealing with investigating incidents and dealing with operational matters, the police employ a number of tactics and procedures, not least with a view to establishing whether or not a crime or offence has been committed, but specific procedures of strategy and deployment.

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

### **Public Interest Test**

I contend that the full release of these SOPs would be counterproductive, harmful and most certainly not in the interest of the public.

The information held outlines the procedures and provides officers / police staff with a guide to the investigation of crime and operational duties. This guide is not an exhaustive list but is designed to assist the police in where to seek guidance on specific matters.

Where a crime has been committed it is the duty of the police to trace the offender(s) and bring them to justice. Police Scotland recognises that the investigation of crime requires a high degree of cooperation between all departments/stakeholders/partner agencies to achieve this goal.

The information contained within these SOPs details the strategies and measures that are employed during the investigation of crime/operation duties.

These strategies would be used in actions/events throughout a wide variety of incidents which supports the argument for retention of the information. The role of the police is to take appropriate measures to prevent and detect crime. Disclosure would provide information as to the specifics of these types of action undertaken, which may appear perfectly reasonable to law-abiding members of the public, however, to those with a mind bent on criminality, the knowledge they gain from such a disclosure could assist individuals to evade detection.

It is important to remember that the subject matter of a request should not just be of interest to the public, but something which is of serious concern and benefit to the public, not merely something of individual interest. To clarify, public interest does not mean “of interest to the public” but “in the interest of the public”. It is never in the public interest to disclose police tactics and compromise law enforcement which, in turn, may compromise public safety.

On balance, it cannot be in the public interest to release information that could inform criminals of the specific strategies taken by the police in such actions/events, decreasing the likelihood of the police being able to prevent crime or detect such offenders.

### **Section 30 (c) – Prejudice to Effective Conduct of Public Affairs**

Internal telephone numbers have not been disclosed, as these are for operational purposes only. This information has been removed in order to ensure that internal processes are protected. Disclosure of this information would be likely to adversely affect internal processes which have been put in place to ensure the effectiveness of the custody process.

Finally and in addition to the above, one other element of the information requested is considered exempt, as such information would contain personal data relating to living individuals: specifically the name of the Author / Reviewer officer listed in each SOP. This information is exempted under the following;

### **Section 38(1)(b) – Personal Information**

The release of this information to a third party, would breach the requirement to process personal data fairly, as laid down by the first data protection principle in Schedule 1 of the Data Protection Act 1998. In this case such data would be gathered for the purpose of policing and to process it for another purpose would be unlawful.

This is an absolute exemption and does not require the application of the public interest test.

I trust that the information available is of assistance and should you require any further assistance concerning this matter please contact me on 01463720555 quoting the reference number given.

If you are not satisfied with the way in which your request has been dealt with, you are entitled in the first instance and within 40 working days of receiving this letter to request a review of the decision made by the Service. Should you wish to do so, contact details are; Police Scotland, FOI Central

Processing Unit, Clyde Gateway, 2 French Street, Dalmarnock, G40 4EH. (Or email [foi@scotland.pnn.police.uk](mailto:foi@scotland.pnn.police.uk)).

Once informed of the review decision, if you are still not satisfied, then you are entitled to apply to the Scottish Information Commissioner within six months for a decision. The contact details are: Office of the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS, telephone 01334 464610. Should you wish to appeal against the Scottish Information Commissioner's decision, there is an appeal to the Court of Session on a point of law only.

Yours sincerely

Andrene Macleod  
Information Management  
Freedom of Information