

I Hudson  
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02 July 2018

Dear I Hudson

**Freedom of Information Act (FOIA) Request – 180606004**

Thank you for your request dated 6 June 2018 in which you asked for the following information from the Ministry of Justice (MoJ):

**For 2016 and 2017 can I have totals for:**

- 1) Any incidents of contraband smuggling that were not done with a drone, i.e. were smuggling by staff, visitors or any other means that was not a drone.**
- 2) The totals for contraband smuggling done by a drone.**

Your request has been handled under the FOIA.

I can confirm that the MoJ holds all of the information that you have requested for question 1. However, it is exempt from disclosure.

We are not obliged to provide information if there are prohibitions on disclosure 'by or under any enactment' (Section 44(1)(a) of the Act). In this case, the information you are seeking is prohibited by the Statistics and Registration Services Act 2007 and the Pre-release Access to Official Statistics Order 2008.

The information you have requested is a subset of the incidents data held in its final form which we routinely publish. It is intended for publication in the HMPPS Digest publication which is due to be published on 26 July 2018. As such we are required to consider your request in a manner compliant with the Pre-release Access to Official Statistics Order 2008 further to Sections 11 and 13 of the Statistics and Registration Service (SRS) Act 2007.

It may be helpful to explain further that MoJ produces official statistics under the standards set by the UK Statistics Authority (the Authority). The Authority is obliged under Section 7 of the SRS Act to promote and safeguard the production and publication of official statistics that serve the public good, with particular reference to good practice and quality. The Authority achieves this through the Code of Practice for Official Statistics (the Code). Protocol 2 of the Code reflects the requirements of the Pre-Release Access to Statistics Order. Specifically, it requires producers of official statistics to ensure that no indication of the substance of a statistical report is made public, or given to the media or any other party not recorded as eligible for access prior to publication. I can confirm that MoJ intends to publish information on finds of confiscated items in prisons as part of Official Statistics. Therefore, to now disclose as part of your FOI request, will undermine the provisions of Section 7 of the SRS Act and violate the Pre-Release Access Order to Official Statistics 2008 and as such engages the exemption under Section 44(1)(a).

Please be advised the information is due to be published on 26 July 2018 in the HMPPS Digest publication and can be accessed via the following link:  
<https://www.gov.uk/government/collections/prison-and-probation-trusts-performance-statistics>.

I can confirm the MoJ holds the information that you have requested for question 2. However, all of the information is exempt from disclosure under section 31(1) (a), (b), (c) and (f) of the FOIA.

Section 31 (1) (a) of the FOIA provides that information is exempt if its disclosure would, or would be likely to, prejudice the prevention and detection of crime. Section 31(1) (b) of the FOIA provides that information is exempt if releasing the information would, or would be likely to, prejudice the apprehension or prosecution of offenders. Section 31 (1) (c) of the FOIA provides that information is exempt if its disclosure would, or would be likely to, prejudice the administration of justice. Section 31 (1) (f) of the FOIA, provides that information is exempt if its disclosure would, or would be likely to prejudice the maintenance of security and good order in prisons.

Section 31 is a qualified exemption which means that the decision to disclose the requested material is subject to the public interest test. When assessing whether or not it was in the public interest to disclose the information to you, we took into account the following factors:

#### **Public interest considerations favouring disclosure**

- We recognise that disclosure in full would provide greater transparency and enable the public to be made aware of any drone activity. This could increase the public's operational understanding of how establishments maintain good order and security in prisons.
- It is important that the public have confidence in the operation of the prison system and there is a public interest in ensuring that drone incidents are being actioned in an efficient and in an effective manner in compliance with formal operational standards and procedures.
- The public interest in maintaining public confidence in the high standards of security and good order of prisons is a key concern and one that is recognised by the MoJ. It is acknowledged that this might be enhanced by the release of the requested information insofar as this would broadly further interests of transparency and accountability.

#### **Public interest considerations favouring withholding the information**

- It is considered that on balance, the likely threat to the good order and security of prisons and the implications of this for prisoners and staff, favours non-disclosure of prison drone incidents.
- The data requested would be likely to be used to subvert the effectiveness of our current counter measures. The information is also likely to prove invaluable to those engaged in criminality within prisons.
- If detail on drone incidents detected by prison staff is released, including the actions taken during a drone incident, criminals may alter their criminal behaviour to avoid detection with the result that investigations would be likely to be frustrated and our ability to counter criminality in prisons reduced.
- Disclosure of this information could also prejudice any ongoing investigation of a drone incident and risk alerting possible suspects as well as weaken the possibilities of future arrests.

On balance, I consider the public interest favours withholding the information at this time.

### **Appeal Rights**

If you are not satisfied with this response you have the right to request an internal review by responding in writing to one of the addresses below within two months of the date of this response.

[data.access@justice.gsi.gov.uk](mailto:data.access@justice.gsi.gov.uk)

Disclosure Team Unit, Ministry of Justice, 10.38, 102 Petty France, London, SW1H 9AJ

You do have the right to ask the Information Commissioner's Office (ICO) to investigate any aspect of your complaint. However, please note that the ICO is likely to expect internal complaints procedures to have been exhausted before beginning their investigation.

Yours sincerely

Operational Security Group  
HM Prison and Probation Service