

Scottish Courts and Tribunals Service



Jonathan Rainey

By email:
[request-833518-
4f96e8aa@whatdotheyknow.com](mailto:request-833518-4f96e8aa@whatdotheyknow.com)

Scottish Courts and Tribunals Service HQ
Saughton House
Broomhouse Drive
Edinburgh
EH11 3XD
Phone 0131 444 3335
DX 545309 Edinburgh 39

23 February 2022

Our Ref: FOI 2022 036

Dear Jonathan Rainey,

Freedom of Information (Scotland) Act 2002 (FOISA)

Thank you for your request for information, received by Scottish Courts and Tribunals Service (SCTS) on 15 February 2022 in the following terms:

Under the Freedom of Information Act 2000 and the Freedom of Information (Scotland) Act 2002, can your authority reveal the following (all between 2000 and 2021):

- 1. Number of instances where homeowners were convicted of using excessive force against the criminal(s) deliberately intent on physically harming them and/or stealing their property.*
- 2. Number of instances where homeowners were cleared of using excessive force against the criminal(s) deliberately intent on physically harming them and/or stealing their property by injuring and/or killing them.*

The SCTS does try where possible to provide the information requested, however on this occasion, the information sought is contained within court records and as such is covered by the court records exemption detailed in section 37(1) of FOISA. As set out in section 2 of FOISA this is an absolute exemption and is therefore not subject to the public interest test.

The reason for section 37 is to preserve the courts' control over court records. It was not the intention that FOISA should provide indirect access to information in court records; the greater public interest was considered to lie in the preservation of the courts' own procedures for considering disclosure. The rules of court already provide a comprehensive code governing the disclosure of court records and documents served in the course of proceedings.

3. *the number of arrests for “deemed” excessive force*
4. *the number of arrests for “proven” excessive force*

I must give notice in terms of section 17 of FOISA that parts 3 & 4 of your request is information which the SCTS does not hold. By way of explanation, the SCTS does not record statistics concerning arrests by Police Scotland or the reasons for such arrests.

You may wish to contact Police Scotland to request any information in this regard:

foi@scotland.pnn.police.uk

You may be interested to note that data is published in relation to recorded crime in Scotland and can be accessed on the Scottish Government website:

[Recorded Crime in Scotland, 2019-2020 - gov.scot \(www.gov.scot\)](http://www.gov.scot/Recorded-Crime-in-Scotland-2019-2020)

I am sorry I cannot be of further assistance on this occasion. Should you feel dissatisfied with this response or the manner in which your request has been handled, the Act provides for a review process to be conducted. Should you wish to take advantage of this process you may apply in writing for a review. Your request should provide details of why you wish a review to be carried out and should be made within 40 working days of receipt of this letter to:-

The Freedom of Information Officer
Scottish Courts and Tribunals Service
Saughton House
Broomhouse Drive
Edinburgh
EH11 3XD
foi@scotcourts.gov.uk

Following that review should you still feel dissatisfied, you have the right to lodge an appeal with the Scottish Information Commissioner either online:

<http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx>

or at the following address:-

Office of the Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St. Andrews
FIFE
KY16 9DS

Yours sincerely

Sean Chalmers

Scottish Courts and Tribunals Service