| Police Scotland logo | Freedom of Information Response Our reference: FOI 23-0097  Responded to: 3rd February 2023 |
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Your recent request for information is replicated below, together with our response.

**Please provide all information held by Police Scotland (eg, correspondence with Scottish Government legal directorate, the Crown Office, or the Scottish Police Authority) related to the disposal/potential disposal of productions used in the prosecution of Luke Mitchell (HMA v Luke Micthell, 2005). This request relates to the time period from January 1, 2021, to the date of responding to this request. The information I would like includes (but is not be restricted to) information related to an initial decision to dispose of productions in the case, and a subsequent decision to halt the disposal of productions.**

In terms of section 16 of the Freedom of Information (Scotland) Act 2002, I am refusing to provide you with the information requested.

Section 16 requires Police Scotland when refusing to provide such information because it is exempt, to provide you with a notice which:

* states that it holds the information,
* states that it is claiming an exemption,
* specifies the exemption in question and
* 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:

## Section 34(1) & (b) – Investigations

Section 34(1)(b) of the Act provides that information is exempt information if it has at any time been held by Police Scotland for the purposes of an investigation which may lead to a decision to make a report to the Procurator Fiscal to enable it to be determined whether criminal proceedings should be instituted.

The matter you are enquiring about is currently subject to a live police enquiry. Any disclosure under FOI legislation is a disclosure to the world at large and any information released at this time could jeopardise or prejudice the ongoing enquiry.

## Public Interest Test

I do appreciate that there is a degree of interest in the release of the information you have requested and that to do so would help inform public debate on policing in Scotland.

However it is essential that any release of information does not interfere or prejudice ongoing enquiries. To do so would put the enquiries at risk and to do so would be vastly against the public interest.

The balance lies in withholding the information requested at this time.

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](mailto:foi@scotland.police.uk) 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](mailto:enquiries@itspublicknowledge.info) 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.