| Police Scotland logo | Freedom of Information Response Our reference: FOI 24-3266  Responded to: 21 January 2025 |
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Your recent request for information is replicated below, together with our response.

## WHY was XXXX XXXX not charged with sectarian hate crime for her public outburst against the Orange Order in September.

## Is calling a group " Bastards and Huns " not sectarian and hate ?

## WHY can she publicly use vile and abusive language towards a sector of the community?

## Was there outside influence from Government or PF office  etc to drop charges?

In response to the 4 questions above, I am refusing to confirm or deny whether the personal 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 the information sought is held, the overwhelming public interest lies in protecting individuals’ right to privacy and their expectation of confidence as regards their information.
* If the information was held, it would be exempt from disclosure. In this instance, sections 38(1)(b) and 38(1)(2A) of the Act apply insofar as you have requested *third party* personal data, the disclosure of which would contravene the data protection principles set out in the Act.

## What deems a hate crime?

The information sought is held by Police Scotland, but I am refusing to provide it in terms of section 16(1) of the Act on the basis that the section 25(1) exemption applies:

“Information which the applicant can reasonably obtain other than by requesting it […] is exempt information”.

The information sought is publicly available at the link below.

Definitions relating to the Hate Crime and Public Order (Scotland) Act 2021 are contained within the legislation - <https://www.legislation.gov.uk/asp/2021/14/introduction>

## Has a precedent now been set that it is open game on any group being publicly slurred? The actions by Police Scotland point to two tier policing. We appear to be going over old ground where it's okay for someone to refer to Protestants as Orange bastards or huns but the law becomes force when Catholics etc are on the receiving end.

As you may be aware, the Freedom of Information (Scotland) Act 2002 provides a right of access to recorded information only. Section 8 of the Act states that in order for a request to be valid, an applicant must describe the information requested - which is not the same as asking for a statement to be created in response to a particular matter.

We are unable to offer any comment therefore as regards the matters set out above.

In terms of any pre-existing recorded information that would set out the Police Scotland ‘position’, such information is not held, and section 17 of the Act therefore applies.

## Can you explain your reasons for dropping these charges?

In response to this question please see the response to questions 1 to 4.

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.