| Police Scotland logo | Freedom of Information ResponseOur reference: FOI 24-3052Responded to: 10 December 2024 |
| --- | --- |

Your recent request for information is replicated below, together with our response.

1. **Did the force record a death/deaths in its custody in September or October 2023?**

Yes - there was one death which occurred whilst the individual was within Police Custody within the period stated.

1. **If yes, what was the name of the deceased/deceased persons?**

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 following exemptions apply:

**Section 34(2)(a)& (b)(ii) - Investigations**

Information is exempt if it held for the purposes of a Fatal Accident Inquiry and/ or for the purpose of making a report to the Crown Office and Procurator Fiscal Service (COPFS) as respects the cause of death of a person.

**Section 39(1) - Health & Safety**

Information is exempt if disclosure would endanger the physical or mental health or the safety of an individual. In this scenario, by causing unnecessary suffering to the loved ones of the deceased.

**Public Interest Test**

Whilst we accept there is a public interest argument in favour of better informing the public as to high profile incidents, there can be no parallel interest in disclosing information held for the purposes of investigations when proceedings remain ongoing.

The details of this investigation will be published in due course by the Police Investigation and Review Commissioner (PIRC).

1. **Was a referral(s) made to the IOPC and on what date(s) was this made? Please also provide me with any relevant reference number(s) that would help me identify this case/these cases in subsequent correspondence with the IOPC.**

Police Scotland do not refer to the IOPC, therefore, the information sought is not held and section 17 of the Act applies.

To be of assistance, Section 64 of the Police and Fire Reform (Scotland) Act 2012 introduces Section 41B of the Police, Public Order and Criminal Justice (Scotland) Act 2006 which provides that a serious incident involving the police will be referred and may be investigated by the Police Investigation and Review Commissioner (PIRC). This will always include instances of death within police custody.

**4) Was a file/files prepared for the coroner, what was the name of the relevant coroner’s court(s), and on what date(s) was this passed to the coroner?**

The information sought is not held by Police Scotland and section 17 of the Act therefore applies.

By way of explanation, The Lord Advocate has responsibility in Scotland to investigate any death which requires further explanation. Within the Crown Office and Procurator Fiscal Service (COPFS) the Scottish Fatalities Investigation Unit (SFIU) is a specialist unit responsible for investigating all sudden, suspicious, accidental and unexplained deaths.

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 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 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.