| Police Scotland logo | Freedom of Information Response Our reference: FOI 23-1683  Responded to: 26 July 2023 |
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Your recent request for information is replicated below, together with our response.

## 1. In relation to Operation Branchform and Section 16 of the Criminal Justice (Scotland) Act 2016, have any conditions been imposed on the persons who have been arrested so far, but released without charge?

## 2. If yes to 1, please describe the conditions.

## 3. Who is the SIO in Operation Branchform?

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

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

(a) states that it holds the information,

(b) states that it is claiming an exemption,

(c) specifies the exemption in question and

(d) 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 and the exemptions that I consider to be applicable are detailed below:

The exemptions that I consider to be applicable to the above requested information are as follows:

**Section 34(1) (a) (i) & (b) – Investigations by a Scottish public authority and proceedings arising out of such investigations**

Information is considered exempt information if it has, at any time, been held by a Scottish public authority for the purposes of an investigation which may lead to a decision to report the circumstances to the Crown Office and Procurator Fiscal Service to enable a determination on whether criminal proceedings should be instigated and to determine whether a person should be prosecuted for an offence.

This is a non-absolute exemption and requires the application of the public interest test.

**Section 35 (1) (a) & (b) – Law Enforcement**

It is incumbent on Police Scotland to prevent crime and detect offenders.

Release of the information requested would adversely impact on the operational effectiveness of the Service and would compromise any tactical advantage the police may have when dealing with crime.

Disclosure of this information would, or would be likely, to prejudice substantially the prevention or detection of crime.

This is a non-absolute exemption which requires the application of the public interest test.

**Section 39 (1) – Health, safety and the environment**

The safety of police officers who have to deal with crime and disorder is also a consideration. Where disclosure of the information would adversely impact on the effectiveness of the Service in preventing crime and disorder then it follows that this would subsequently increase the risk to the safety of the public and police officers.

This is a non-absolute exemption and requires the application of the public interest test.

**Public Interest Test**

Public awareness and accountability would favour disclosure as it would contribute to the public debate surrounding the efficient and effective use of resources by Police Scotland.

However, in contrast, there is no public interest in disclosing information which is likely to damage the efficient and effective conduct of the police service in relation to its law enforcement role, or which is likely to have an adverse impact upon officer safety.

In this instance I consider that the decision must fall in favour of preventing crime and safeguarding the health and safety of our officers. Accordingly, on balance, the public interest in disclosing the information requested is outweighed by that in maintaining the exemptions detailed above.

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.