| Police Scotland logo | Freedom of Information Response Our reference: FOI 23-1940  Responded to: 31 August 2023 |
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Your recent request for information is replicated below, together with our response.

I would ask that you note that Police Scotland started to use an electronic management system to record productions in 2020, prior to that date all records were held in a paper format. It would not be possible, within the costs limits prescribed by the Scottish Ministers under the legislation, to extract information prior to 2020. As such, in terms of Sections 12(1) (Excessive cost of compliance) and 16(4) (Refusal of request) of the Freedom of Information (Scotland) Act 2002 (the Act), this letter represents a Refusal Notice.

## From 2019- to now how many kilograms of confiscated drugs have gone missing from police custody?

I can advise that from 2020 there have been 12 instances where drugs cannot be located.

In relation to the weight in kilograms I can advise that information about the type of drugs held may be described in a number of different means depending on the type of seizure; for example it may be a number of pills, or in grams or by visual description (e.g. “a wrap”), therefore it is not possible to provide a definitive answer in the form requested.  In terms of Section 17 of the Act, this letter represents a formal notice that information is not held in the format requested.

## Can we get a break down of when it was put into police storage for evidence? How much went missing? When it was reported? The value that went missing

The information requested is considered to be exempt in terms of the Freedom of Information (Scotland) Act 2002 (the Act). Section 16 of the Act requires Police Scotland 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. Where information is considered to be exempt, this letter serves as a Refusal Notice that information is held and an explanation of the appropriate exemption is provided.

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

**Section 34 (1) (b) – Investigations**

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

Section 34(1) (b) of the Act provides an absolute exemption from disclosure in 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.

This, in turn, would be likely to prejudice substantially the ability of the police to investigate and detect crime, and would have a similar detrimental impact on the apprehension or prosecution offenders – making the information exempt from disclosure in terms of Section 35(1) (a) & (b).

These exemptions are non absolute and require the application of the public interest test.

**Public Interest Test**

It could be argued that it is in the public interest that an understanding exists as to the processes involved in police investigations. Accordingly, it could be argued that accountability and transparency relating to the actions of the Service and our officers would favour disclosure of the information.

That said, disclosure must be tempered against what is of interest to the public and what is in the public interest. Disclosure of information pertaining to investigations has to be disclosed at the correct time and where appropriate, to ensure that neither the investigation nor the potential for proceedings to be brought against an individual(s) are put at risk. To that end, Police Scotland will not release any information that could prejudice an investigation.

Accordingly, at this time the public interest in the disclosure of the requested information is outweighed by the harm that could be created by revealing information.

Finally, I would ask that you note the following, Police Scotland is responsible for the management millions of items of evidence and the number of productions found to be ‘missing’ are minimal when compared to the volume held in our custody. Any discrepancies are noted and investigated in accordance with our robust security procedures which maintain the security and integrity of these items and the criminal justice process.

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.