| Police Scotland logo | Freedom of Information ResponseOur reference: FOI 23-0203Responded to: 28th March 2023 |
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Your request for information is replicated below, together with our response.

Please accept our apologies for the delay in responding.

**1a. How many serving police officers have been arrested for and subsequently charged with rape in the last five years (2017 - 2022)?**

The Police Scotland [Complaints About the Police (CAP) Standard Operating Procedure](https://www.scotland.police.uk/spa-media/fifhh5vo/complaints-about-the-police-sop.pdf) (SOP) outlines how we deal with criminal and non-criminal complaints for both on and off duty matters.

You will note from the CAP SOP that *‘where there is a reasonable inference that a crime may have been committed’* the circumstances must be reported to the Crown Office and Procurator Fiscal Service (COPFS) for independent assessment and consideration of criminal proceedings.

In order to answer your request relating to officers *‘arrested for and subsequently charged with rape’*, a search was conducted for all rape allegations against police officers reported to the Crown Office and Procurator Fiscal Service (COPFS) between January 2017 and December 2022.

On that basis, five police officers were identified.

**Please break this down into each calendar year…**

One case was received in 2017, one in 2018, one in 2019, one in 2020 and one in 2021.

**…and please provide the rank of the accused officer.**

Please see below.

**1b. What were the dates of each report of the rape and the date that each officer was suspended from duty?**

I can confirm that the officers involved were all suspended from duty.

I am however refusing to provide the rank of the officers and the exact dates of the allegations and suspensions on the basis that the pool of individuals to whom the data requested could relate is considered sufficiently low that there exists the potential for individuals to be easily identified.

In terms of section 16 of the Act, I am therefore refusing to disclose the information and I am therefore required 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 the information sought is held by Police Scotland and the exemption I consider to be applicable is section 38(1)(b) of the Act - personal information.

Personal data is defined in Article 4 of the General Data Protection Regulation (GDPR) as:

*‘Information relating to an identified or identifiable natural person (“data subject”); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person’*

Section 38(2A) of the Act provides that personal data is exempt from disclosure where disclosure would contravene any of the data protection principles set out at Article 5(1) of the GDPR which states that:

*‘Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject’*

Article 6 of the GDPR goes on to state that processing shall be lawful only if certain conditions are met. The only potentially applicable condition is Article 6(1)(f) which states:

*‘Processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child’*

Whilst I accept that you may have a legitimate interest with regards the disclosure of this information I do not agree that disclosure could be considered necessary in the circumstances.

Notwithstanding, I am further of the view that your interests are overridden by the interests or fundamental rights and freedoms of the data subjects.

On that basis, it is my view that disclosure of the information sought would be unlawful.

**1c. How many of the reports each year from 2017 to 2022 resulted in a guilty verdict?**

None of the five police officers were convicted.

**2a. How many serving police officers have been arrested for and subsequently charged with indecent image offenses in the last five years (2017 - 2022)?**

A search was conducted for all indecent image allegations against police officers reported to COPFS between January 2017 and December 2022.

On that basis, nine police officers were identified.

**…Please break this down into each calendar year**

Five cases were received in 2017, three in 2019 and one in 2022.

**…and please provide the rank of the accused officer.**

Please see below.

 **2b. What were the dates of each report of the indecent images charges and the date that each officer was suspended from duty?**

I can confirm that eight of the nine officers were suspended from duty.

A further officer was not suspended but was placed on restricted duties.

I am refusing to provide the rank of the officers and the exact dates of the allegations and suspensions on the basis that doing so could lead to individuals being identified.

I would refer you to the rational outlined at question 1b above.

**2c. How many of the reports each year from 2017 to 2022 resulted in a guilty verdict?**

Seven of the nine police officers were convicted and one case remains pending 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 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.