| Police Scotland logo | Freedom of Information Response Our reference: FOI 23-0086  Responded to: XX February 2023 |
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Your recent request for information is replicated below, together with our response.

## How many arrests were made outside/at Balmoral Castle in the last five calendar years? (2018-2022). Please break it down by calendar year. If possible, please provide what the arrests were for.

In 2018, the Criminal Justice (Scotland) Act 2016 removed the separate concepts of arrest and detention and replaced them with a power of arrest without warrant - where there are reasonable grounds for suspecting a person has committed, or is committing, an offence.

When a person is arrested, a statement of arrest should be read over as soon as reasonably practical and details recorded in the arresting officer’s notebook.

A person is ‘Not Officially Accused’ (a suspect) when arrested *and* *not* cautioned and charged. They are ‘Officially Accused’ once arrested *and* cautioned and charged.

If conveyed to a police station, the arrested person (of either classification) will have their details recorded in the Police Scotland National Custody System.

The Act however also provides for certain situations whereby a person must be released from police custody prior to their arrival at a police station - effectively allowing the police to ‘de-arrest’ that person where the reasonable grounds for suspicion no longer exist.

In those circumstances, the details of an arrested person are not held electronically.

As a result, we are unfortunately unable to collate comprehensivearrest data as case by case assessment of all officer notebooks would be required - in addition to the partialarrest data held in the National Custody System**.**

As you may be aware the current cost threshold is £600 and I estimate that it would cost well in excess of this amount to process your request. As such, and in terms of Section 16(4) of the Freedom of Information (Scotland) Act 2002 where Section 12(1) of the Act (Excessive Cost of Compliance) has been applied, this represents a refusal notice for the information sought.

To be of assistance however, we have gone on to consider whether, as an alternative, we could provide you with details of all recorded incidents where police attended at this specific location. It is considered likely that any arrests would be as a result of a reported and therefore recorded incident.

I can confirm that such information is held by Police Scotland, but it is considered to be exempt in terms of section 16 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.

Section 35(1)(a)&(b) - Law Enforcement

Law Enforcement Information is exempt information if its disclosure under this Act would, or would be likely to; prejudice substantially the prevention or detection of crime and the apprehension or prosecution of offenders.

The primary duty of Police Scotland is to ensure the safety of both residents as well as the general public who may be visitors to this high profile area. It is also incumbent on the Service to prevent crime, detect offenders and ensure the area is policed with as little disruption to the community as possible.

Release of the information requested would adversely impact on the operational effectiveness of policing as it would imply the policing resources available across the period. Being aware of policing resources within this very defined area would allow persons or groups intent on committing offences or causing disorder to make a reasonable assessment of policing tactics and means in the future and thus to make an assessment of the capacity of the Service to deal with such eventualities.

To disclose this information into the public domain would undermine the tactical options available and compromise the effective delivery of future operational law enforcement.

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

Section 39(1) - Health and safety

As previously stated above, the main priority for the Service in policing is to ensure the safety of residents as well as other members of the public. In addition, the safety of police officers who may have to deal with any crime and disorder at the event is also a consideration.

Where disclosure of 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 through them becoming victims of such conduct.

Release of the information therefore would, or would be likely to, endanger the physical or mental health or the safety of an individual.

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

Public Interest Test

Public awareness and accountability would favour a disclosure on this subject as it would contribute to the public debate surrounding the efficient and effective use of resources by the Service. 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 public safety.

As explained above, this would allow those intent on wrong-doing to gauge, with some accuracy, the level of specific police resources utilised, thus affording them the opportunity to take steps to circumvent the ability of the Police to deliver effective law enforcement provision, and placing themselves, members of the public and the police force at increased risk.

On this occasion I believe the public interest is in favour of preventing crime and safeguarding the health and safety of the public.

Accordingly, the exemptions detailed above are engaged.

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.