



LETTER SENT BY E-MAIL ONLY

4 December 2024

Ref 2024/25-080

Freedom of Information (Scotland) Act 2002

Request

Please find below our response to your correspondence dated 11 November 2024, in which you posed the following questions under the Freedom of Information (Scotland) Act 2002.

“I am amazed as the Duty Holder for Health and Safety for Health and Safety for Police Scotland, you knew nothing about any written information about this subject. This despite publishing an annual report.

I find it concerting that no injuries were reported for detainees, yet hundreds of RIDDOR reports for staff. So could the CMT explain to the Ministers involved and myself, how detainees never suffer reportable injuries.

Strange to say the least, Ministers should be asking themselves, have we been misled.”

Response

The Freedom of Information (Scotland) Act 2002 allows members of the public to seek access to recorded information held by Scottish public authorities. As outlined in our previous response, the Authority does not hold the information you have requested.¹

In terms of our duty to assist, we can provide the following related information:

¹ This represents a notice in terms of Section 17 of the Freedom of Information (Scotland) Act 2002 - Information not held.

The Authority's role in the oversight and scrutiny of policing and Police Scotland's operational independence is outlined in the [Police and Fire Reform \(Scotland\) Act 2012](#).

The Authority can point to the following oversight and assurance:

The Authority has responsibility for an [Independent Custody Visiting Scheme](#) which ensures that the dignity and human rights of any individual in custody are respected and upheld. This supports the Authority to maintain and improve policing in Scotland by providing assurance and identifying areas of improvement. The [ICVS Annual Report for 2023-24](#) is available on our website.

The Authority sought assurance in relation to recommendations about injuries in custody at a meeting of the Audit Risk and Assurance Committee on 16 September 2021. Extracts from the report 'Police Scotland Audit and Improvement Recommendations Tracker – Q2 (to end of August 2021)' are copied below:

"Recommendation 1-18:

The CPT recommends that police officers be regularly reminded of the basic principles of using no more force than strictly necessary, including through practical training exercises.

"The CPT recommends that the Scottish authorities deliver a strong message that the ill-treatment of detained persons is illegal, unprofessional, and will be the subject of appropriate sanctions. Further, the authorities should ensure that injuries are systematically recorded and that an investigation is systematically carried out into every allegation of ill-treatment.

"Current Status:

Every training course provided by CJSD Divisional Training Department is delivered according to ECHR obligations and Police Scotland's Code of Ethics are constantly referred to and highlighted throughout. A specific Module of the Custody Officer Induction course covers the Criminal Justice (Scotland) Act 2016 and how it complies fully with ECHR article rights. Another Module of the Induction course covers Adverse Incidents and Recording mechanisms. This includes the topic of injuries to prisoners and staff, accident reporting and referrals to and the role of the Police Investigations and Review Commissioner (PIRC). On all CJSD Training courses, Trainers make it abundantly clear that Care and Welfare of those detained in police custody is the highest priority and ensure all staff are fully aware of their primary obligations (as per guidance illustrated in the Care and Welfare of Persons in Police Custody Standard Operating Procedure (SOP). Recording of injuries are addressed at the specific related recommendation 8.

The annual refresher Officer Safety Training delivered to all staff involves practical training exercises regarding proportionate use of force.”

“Recommendation 8-18:

The CPT recommends that the Scottish authorities ensure that custody staff are reminded, through regular training, that all injuries should be immediately and properly documented and that such detained persons should be examined by NHS health-care staff; recording of the medical examination in cases of traumatic injuries should be made on a special form provided for this purpose, with body charts for marking traumatic injuries that should be kept in the custody records of the detained person. Also, a special trauma register should be kept.

Current Status:

NHS PART OWNERSHIP (Relevant text regarding special form and trauma register was provided by the National Police Care Network). A person in custody should be referred to an HCP if there is any reason to believe they are suffering from an injury (depending on severity). All injuries noted or self-declared are recorded on the National Custody System (NCS) and where appropriate, brought to the attention of the Force Custody Inspector. Custody staff will also refer a person to an HCP if there are concerns relating to their demeanour. If an injury is sustained in custody through an allegation of ill-treatment, processes are in place to ensure that a healthcare professional is involved and robust reporting mechanisms are in place for the prisoner to make a complaint. Dependent upon the circumstances this may involve an Episode Report being recorded on NCS, and it may prompt the commencement of a Procedural Review or notification to (PSD) for evaluation. PIRC are also required to be informed of any serious injury in custody under the Police and Fire Reform Act 2012 and the Police Investigations and Review Commissioner (Investigations Procedure, Serious Incidents and Specified Weapons) Regulations 2013. Custody records are the subject of ongoing review, through governance processes. The Force Custody Inspector has oversight at any one time, there is accessibility of on-call senior management and discussions of noteworthy incidents/custodies take place during daily senior management meetings. A programme of regular audits are also conducted to scrutinise custody record content. As previously referred to, a Module within the Custody Officer Induction course covers Adverse Incidents and Recording mechanisms. This is supplemented via regular email briefings from both Divisional and Force Officer Safety Training and the use of force is recorded on relevant reporting systems.”

“Recommendation 9-18:

The CPT recommends that procedures should be put in place to ensure that whenever injuries are recorded which are consistent with allegations

of ill-treatment made by the detained person concerned (or which, even in the absence of an allegation, are clearly indicative of ill-treatment), the record is systematically brought to the attention of the competent prosecuting authorities, regardless of the wishes of the person concerned. The person should be told of the reporting obligation by the doctor and reminded that he/she can also initiate a complaint, if they so wished. The results of the examination should also be made available to the detained person concerned and his or her lawyer. If necessary, the Scottish Standard Operating Procedure should be amended to reflect these principles.

Current Status:

NHS OWNERSHIP (Text provided by the National Police Care Network)
Whilst there is not currently a special form or trauma register used to document injuries in these circumstances, the National Police Care Network would be happy to facilitate scope as to whether such a form would be feasible and more beneficial than the current process, along with an amendment of the current SOP to include a protocol informing doctors of their responsibilities of who to distribute their reports (of injuries) to (including the person/their lawyer). For further context, the National Police Care Network has a role to improve capability and capacity in the forensic medical workforce in Scotland. Through its Education and Workforce facet working group, the Network will look to refresh existing training materials. The Network will ensure that the underpinning international and national legal context, including the Mandela Rules and Istanbul Protocol is included in the revised training materials. The Networks will also work with healthcare professionals working in police custody to ensure that they are aware of processes for the examination of victims of torture and ill treatment.”

The purpose of the update was to provide Members with an update in relation to the National Preventative Mechanism (NPM) report which was provided as an Appendix². The NPM report was an assessment of the implementation of recommendations made by the European Committee for the Prevention of Torture (CPT).³ Injuries in police custody is referenced on pages 35-37.

Police Scotland may hold more recent information regarding the recommendations outlined in this response. Information about RIDDORs for those detained in police custody may also be available by contacting Police Scotland at foi@scotland.police.uk

² [Scotland's progress in the prevention of ill-treatment in place of detention - August 2021](#)

³ Report by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) is available at <https://rm.coe.int/1680982a3e>

Right to Review

If you are dissatisfied with the outcome of your request you can ask for a review within 40 working days. You must specify the reason for your dissatisfaction and submit your request by email to foi@spa.police.uk or by letter to Scottish Police Authority, 1 Pacific Quay, Glasgow, G51 1DZ.

If you remain dissatisfied after review, you can appeal to the Scottish Information Commissioner within six months. You can apply [online](#), by email to enquiries@foi.scot or by letter to Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS.

Should you wish to appeal against the Commissioner's decision, you can appeal to the Court of Session, only if you think the law has not been applied correctly.

This response will be posted to our [Disclosure Log](#) after seven days.

Yours faithfully

SPA Corporate Management

