|  |  |  |  |
| --- | --- | --- | --- |
|  |  |  |  |

|  |  |
| --- | --- |
| Ministry of Justice | April 2017 |

**Freedom of Information Act (FOIA) Request – 110877**

You asked for the following information from the Ministry of Justice (MoJ):

**A list of all the cases in which prosecutions took place (successfully or unsuccessfully) between 1967- 2017 under:**

**Section 58 of the Offences against the Person Act 1861**

**Section 59 of the Offences against the Person Act 1861**

**The Infant Life (Preservation) Act 1929.**

**Electronic (PDF) copies of all the judgements in the above cases, preferably in separate .zip files according to the statute under which prosecution took place.**

I can confirm that the department holds the information that you have asked for, however some of it is exempt from disclosure.

Please find attached a table showing the number of defendants prosecuted at magistrates’ courts and offenders found guilty at all courts of selected offences in England and Wales from 1984 to 2015.

Some of the information you have requested is exempt from disclosure under section 21 of the FOIA, because it is reasonably accessible to you.

Court proceedings statistics prior to 1984, which would include defendants prosecuted at magistrates’ courts and offenders found guilty at all courts of selected offences in England and Wales, from 1885 to 1983, can be obtained at this link <http://tinyurl.com/gmf68ny>.

Regarding the copies of all the judgements in the above cases, the information

is exempt from disclosure under section 32 of the FOIA because it is held in a court record.

Under section 32(1)(c) information is exempt if it is a document created by a court for the purposes of proceedings in a particular cause or matter.

The reason for section 32 is not to do with the issue of whether information is a public record or not, it is to preserve the courts control over court records. Even if a document may have been made public at the hearing it ceases to be a public record after the hearing and then becomes protected by virtue of section 32. It was not the intention that the FOIA should provide indirect access to court records; the greater public interest was considered to lie in the preservation of the courts' own procedures for considering disclosure.

Section 32 is an absolute exemption and there is no duty to consider the public interest in disclosure.

You may wish to contact the court directly to apply for access to court documents under the Criminal Procedure Rules. These are separate and specific regimes for access to information held by courts, designed to give those bodies themselves a measure of control over that information. Rules of court already provide a comprehensive code governing the disclosure of court records and documents served in the course of proceedings. Please note that you will be required to pay a fee as advised by the court

Some of the information, which covers 2016 and 2017, is exempt from disclosure under section 44(1)(a) of the FOIA, which refers to prohibitions on disclosure ‘by or under any enactment’ of the FOIA. In this case, the information you are seeking is prohibited by the Statistics and Registration Services (SRS) Act 2007 and the Pre-release Access to Official Statistics Order 2008.

The information you have requested is a subset of the Criminal Justice Statistics data held in its final form which we routinely publish. It is intended for publication in May 2017 and May 2018 respectively. As such we are required to consider your request in a manner compliant with the Pre-release Access to Official Statistics Order 2008 further to sections 11 and 13 of the (SRS Act 2007).

The MoJ is obliged under section 13 of the SRS Act to continue to comply with the Code of Practice for Official Statistics (the Code) for statistics designated as National Statistics. Section 11(3) of the SRS Act regards the Pre-Release Access to Official Statistics Order as being included in the Code. Protocol 2 of the Code reflects the requirements of the Pre-Release Access to Statistics Order. Specifically, it requires producers of official statistics to ensure that no indication of the substance of a statistical report is made public, or given to the media or any other party not recorded as eligible for access prior to publication. I can confirm that the MoJ does publish information on court proceedings and sentencing for offences of coercive control, for 2016, as part of National Statistics. Therefore, to now disclose as part of your FOI request, will violate the provisions of section 13 of the SRS Act and the Pre-Release Access Order to Official Statistics 2008 and as such engages the exemption under section 44(1)(a) of the FOIA.

Please also be aware that Section 44 is an absolute exemption and does not require a public interest test.

The information for 2016 is also exempt from disclosure under section 22(1) of the FOIA, because it is intended for future publication. Please note that whilst quarterly court proceedings and convictions headline data are published and are currently available up to end September 2016, these data are subject to revision as later quarters are published, and are finalised only when the annual publication is made publicly available. To ensure consistency of data released to users, further breakdowns (in this case by specific offences under certain legislation) of 2016 Quarters 1 to 3 (January to September) data are not available until the annual criminal statistics publications are published in May 2017 and May 2018 respectively.

This is a qualified exemption which means that the decision to disclose the information is subject to the public interest test. When assessing whether or not it was in the public interest to disclose the information to you, we took into account the following factors:

**Public interest considerations favouring disclosure**

* Disclosure would improve transparency in the operations of Government, and of the justice system in particular.

**Public interest considerations favouring withholding the information**

* It is in the public interest to adhere to the existing publication process for official statistics, which includes time for the data to be collated and properly verified.
* It is in the public interest to ensure that data used in the compilation of official statistics comply with the Code of Practice for Official Statistics and that resulting outputs are produced to the highest quality. Statistics of high quality are produced to sound methods, with all users having easy and equal access that is fair and open, and are managed impartially and objectively in the public interest. Premature publication could undermine the principle of making the information available to all at the same time through the official publication process.

We reached the view that, on balance, the public interest is better served by withholding this information under section 22 of the FOIA at this time.