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Our Ref: Cambridgeshire FOI2018/00151, Hertfordshire FOI2018/00143, Bedfordshire FOI2018/00140

REQUEST UNDER THE FREEDOM OF INFORMATION ACT 2000 Ref No: FOI2018/00151, FOI2018/00143, FOI2018/00140

I write in connection with your request for information received on 10th January by Cambridgeshire Constabulary, Hertfordshire Constabulary and Bedfordshire Police. I note you seek access to the following information:

**Could you inform me of the following, from the last three calendar years - 2015, 2016, and 2017.
How many people have been arrested on suspicion of grooming a child* after an investigation that involved officers posing as children on the Internet?**

***this would cover suspected offences under Sections 14 and 15 of the Sexual Offences Act 2003 and, from April 2013, the new offence of sexual communication with a child.**

I am required by the Freedom of Information Act 2000 (The Act) to handle all requests in a manner that is blind to the identity of the requestor. Any information released in response to a request is regarded as being published and therefore, in the public domain without caveat.

Cambridgeshire Constabulary, Hertfordshire Constabulary and Bedfordshire Police are a collaborated Information Management department and therefore, this response is on behalf of the 3 Forces.

Response – Cambridgeshire Constabulary, Hertfordshire Constabulary and Bedfordshire Police neither confirms nor denies that it holds information as the duty in Section 1(1)(a) of the Freedom of Information Act 2000 does not apply, by virtue of the following exemptions:

Section 23(5) Information supplied by, or concerning, certain Security Bodies
Section 30(3) Investigations
Section 31(3) Law Enforcement

Section 23 is a class based absolute exemption and there is no requirement to evidence the harm or consider the public interest.

Section 30 is a class based qualified exemption and consideration of the public interest must be given as to whether neither confirming nor denying information exists is the appropriate response.

Section 31 is a prejudice based qualified exemption and there is a requirement to articulate the harm that would be caused in confirming or not whether information is held as well as carryout a public interest test.

Harm in complying with Section 1(1)(a) – to confirm or not whether information is or isn't held

Section 31

The public expect police forces and other law enforcement agencies (LEAs) to use all powers and tactics available to prevent and detect crime or disorder and maintain public safety. There are a number of covert tactics available and undercover policing is one of them. Applied correctly, and supported by appropriate training, it is a proportionate, lawful and ethical tactic which provides an effective means of obtaining evidence and intelligence.

Undercover policing is only used as defined within relevant legislation, i.e. the Regulation of Investigatory Powers Act 2000, and any undercover officers are bound by a Code of Ethics.

The College of Policing Authorised Professional Practice (APP) for Undercover Policing details the principles and standards of undercover officers; the legal framework which underpins their use and sets the standards of professional practice, see below link:

<https://www.app.college.police.uk/app-content/covert-policing/undercover-policing/#legal-framework>

In addition, the APP clearly articulates the harm in confirming or denying whether information is held relating to undercover officers:

'... The established neither confirm nor deny (NCND) principle is used by LEAs (law enforcement agencies which includes police forces) to protect covert methodology, sensitive information and the identity of sources of information, e.g. undercover officers.

NCND is not used to hide information that the LEA does not wish to disclose. Rather, it serves to safeguard the tactics used and the lives and wellbeing of UCOs, their families and others.

In some situations, simply confirming or denying whether the LEA holds a particular category of information could in itself disclose sensitive and damaging information. The principle of NCND is needed to prevent harm which may arise if LEAs have to confirm or deny whether they hold particular information...'

The impact of confirming or denying whether information is held would undermine the College of Policing APP for Undercover Policing and more importantly the whole covert 'undercover' policing ethos.

In addition, to confirm or deny whether information is held in this case has the potential to undermine the flow of information (intelligence) received from members of the public into the Police Service and other outside agencies relating to these types of offences. Furthermore, on-going investigations would also be compromised which could lead to police officers removed from their frontline duties in order to increase manpower on a particular operation/investigation.

Confirmation or denial would also highlight individual force capacity and covert methodology resulting in offenders being able to map the capabilities across the country which will be detrimental to the effective use of the covert tactics, as well as a serious risk to law enforcement efforts to identifying, arresting and disrupting the perpetrators of these offences,

Finally, sexual offences against children is a highly emotive subject and not only a national problem but also a global one. In order to ensure Cambridgeshire Constabulary, Hertfordshire Constabulary and Bedfordshire Police delivers effective law enforcement we liaise with various other national agencies to provide suitable support. Not only would police investigations be compromised but any enquiries or investigations that other agencies may be undertaking would also be compromised.

Public Interest Considerations

Section 30(3) Investigations

Factors favouring complying with Section 1(1)(a) confirming that information is held

Confirming or denying that any information exists would lead to a better informed public improving their knowledge and understanding of how the Police Service deals with its responsibility in line with undercover and covert policing. The public would also be made aware that Cambridgeshire Constabulary, Hertfordshire Constabulary and Bedfordshire Police proactively deploys the level of tactical response required when dealing with on-going investigations.

Factors against complying with Section 1(1)(a) confirming or denying that information is held

By its very nature, information relating to undercover policing is highly sensitive in nature. Under the Freedom of Information Act there is a requirement to comply with Section 1(1)(a) and confirm what information is held. In some cases it is that confirmation, or not, which could disclose facts harmful to undercover police officers and in such cases Cambridgeshire Constabulary, Hertfordshire Constabulary and Bedfordshire Police takes advantage of its ability under this legislation to, where appropriate, neither confirm nor deny that the information requested is or is not held.

Irrespective of what information is or isn't held, in some cases undercover officers are being protected due to on-going investigations. Information which could be used to undermine prosecutions or aid offenders is not in the public interest.

Section 31(3) Law Enforcement

Factors favouring complying with Section 1(1)(a) confirming information is held

There is media speculation and rumour within the public domain relating to undercover officers posing as children online and that in itself can be considered to be a factor for disclosure.

Factors against complying with Section 1(1)(a) neither confirming nor denying that information is held

Cambridgeshire Constabulary, Hertfordshire Constabulary and Bedfordshire Police have a duty of care to the community at large and public safety is of paramount importance. If a disclosure revealed information to the world (by citing an exemption or stating no information held) that would undermine a covert operation and place the safety of any undercover officers at risk, offenders could use this to their advantage which would compromise public safety, the safety of the officers and it may encourage offenders to carry out further crimes.

Cambridgeshire Constabulary, Hertfordshire Constabulary and Bedfordshire Police rely on information being supplied by the public to assist in criminal investigations. Irrespective of what information is or isn't held, by applying substantive exemptions would indicate that information is held and is currently being investigated. Such action would act as a deterrent to the public to provide intelligence to the force which would further undermine public safety, with repercussions that could hinder the prevention or detection of crime.

Balancing Test

The points above highlight the merits of confirming, or denying, whether information pertinent to this request exists. The Police Service is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. As part of that policing purpose, various operations with other law enforcement bodies may or may not be on-going. The Police Service will never divulge whether or not any information is held if to do so would place the safety of an individual(s) at risk or undermine on-going investigations.

The public also entrust the Police Service to make appropriate decisions with regard to their safety and protection and the only way of reducing risk is to be cautious with any information that is released. In this case, and irrespective of what information is or isn't held, the effective delivery of operational law enforcement takes priority and is at the forefront of Cambridgeshire Constabulary, Hertfordshire Constabulary and Bedfordshire Police to ensure the prevention and detection of crime is carried out and the effective apprehension or prosecution of offenders is maintained. This includes ensuring our relationship with other law enforcement agencies runs smoothly in the joint approach to multi-agency investigations.

Therefore, at this moment in time, it is our opinion that for these issues the balance test for confirming, nor denying, that information is held is not made out.

No inference can be taken from this refusal that information does or does not exist.

Should you have any further enquiries concerning this matter please do not hesitate to contact me quoting the above reference number.

Yours sincerely

Sonia Chopra-Miah
Information Rights

Cambridgeshire Constabulary, Hertfordshire Constabulary and Bedfordshire Police provide you the right to request an independent review of this response under its review procedure. If you require such a review you must notify us within two months from the date of this letter. After lodging a complaint with Cambridgeshire Constabulary, Hertfordshire Constabulary or Bedfordshire Police if you are still dissatisfied with the decision you may make an application to the Information Commissioner. For information on how to make a complaint please visit their website at <https://ico.org.uk/concerns/> or contact them on 0303 123 1113.