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Our Ref: FOI2018/02877

REQUEST UNDER THE FREEDOM OF INFORMATION ACT 2000 Ref No: FOI2018/02877

I write in connection with your request for information received on 25th May. I note you seek access to the following information:

Please provide a copy of the assessment carried out by the Bedfordshire, Cambridgeshire and Hertfordshire Major Crime unit in 2015 of Operation Bute, including the 14 recommendations made to progress the investigation.

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.

Response – Hertfordshire Constabulary 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 40(5) – Personal Information
Section 30(3) – Investigations and Proceedings Conducted by Public Authorities
Section 31(3) – Law Enforcement

The Section 40 exemption is a class based absolute exemption and as such the legislators have identified that there would be harm in disclosure and there is no need to evidence this or carry out a public interest test.

The Section 30 exemption is a class based qualified exemption. This means that the legislators when writing the legislation considered that the release of such information under the Freedom of Information Act 2000 would cause harm to the public authority or individuals concerned. There is therefore no requirement to carry out a HARM Test in respect of such information. However there is a requirement to carry out a Public Interest Test in order to establish whether the public interest in maintaining the exemption may be outweighed by a wider public benefit in disclosure.

The Section 31 exemption is a qualified prejudice based exemption which requires the prejudice (harm) to be evidenced and a public interest test to be carried out.

Public Interest Considerations

Section 30

Factors favouring complying with Section 1(1)(a)

When considering the public interest test, whilst confirming or denying whether information exists relevant to this request would lead to a better informed general public by identifying that Bedfordshire, Cambridgeshire and Hertfordshire's Major Crime Unit robustly investigate when a child disappears and continues to do so many years ago the disappearance. This fact alone may encourage individuals to provide intelligence in order to assist with this investigation and would also promote public trust in providing transparency and demonstrating openness and accountability into whether the police are currently focusing their investigations.

The public are also entitled to know how public funds are spent, particularly in the current economic climate.

The disappearance of any child is always a highly emotive subject which attracts high profile media and public interest connotations. Confirmation or denial that any information exists could provide reassurance to the general public.

Factors against complying with Section 1(1)(a)

Modern-day policing is intelligence led and BCH Major Crime Unit share information with other law enforcements agencies as part of their investigation process. To confirm or not, by citing a substantive exemptions, or conversely, stating no information is held, as to whether named police forces have carried out assessments into how to progress the investigation could hinder the prevention and detection of crime as well as undermine the partnership approach to investigations and law enforcement.

Section 31

Factors favouring complying with Section 1(1)(a)

There is formal acknowledgement within the public domain confirming that Operation Bute is a Royal Military Police investigation and that in itself can be considered to be a factor for disclosure, see below link:

<http://www.bbc.co.uk/news/uk-england-36128371>

Factors against complying with Section 1(1)(a)

Confirming or not whether information is held in this case would suggest that BCH Major Crime Unit take their responsibility to protect confidential information provided to them seriously and appropriately to ensure the effective delivery of operational law enforcement.

In addition, BCH Major Crime Unit relies on information being supplied by the public. 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.

Balance Test

The points above highlight the merits of confirming or denying that information pertinent to this request exists. The Police Service relies heavily on the public providing information to assist in criminal investigations and has a duty to ensure every avenue of an investigative enquiry is looked into and dealt with from a policing perspective.

The public has an expectation that any information they provide will be treated with confidence and in line with the APP mentioned within the harm. Anything which places that confidence at risk, no matter how generic, would undermine any trust or confidence individuals have in the Police Service.

In addition, the effective delivery of operational law enforcement takes priority and is at the forefront of BCH Major Crime Unit to ensure the prevention and detection of crime is carried out and the effective apprehension or prosecution of offenders is maintained.

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

James Hodson
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Hertfordshire Constabulary provides 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 Hertfordshire Constabulary 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.