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Information Rights  
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Our Ref: Beds FOI2018/05201 Cambs FOI2018/5218 Herts FOI2018/5211

### REQUEST UNDER THE FREEDOM OF INFORMATION ACT 2000 Ref No: FOI2018/05201

I write in connection with your request for information received on 17th September. I note you seek access to the following information:

- **Does your police force use (international mobile subscriber identity) technology? If the answer to this is yes then please say since when and how much it has cost the force per year. Please also say what the data was used for eg in what sorts of cases, where it was stored and if it is still stored.**
- **Does the force use covert communications data capture (CCDC)? If the answer to this is yes then please say since when and how much it has cost the force per year. Please also say what the data was used for eg in what sorts of cases, where it was stored and if it is still stored.**
- **Please say who the main supplier of these devices are and how much has been paid to the company Cellxion over the last few years for such equipment. Please break this down by year.**

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** – Bedfordshire Police, Cambridgeshire Constabulary and 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 23(5) – Information supplied by, or concerning, certain security bodies
- Section 24(2) – National security
- Section 31(3) – Law enforcement

Section 23 is a class based absolute exemption and there is no requirement to consider the public interest test in this area.

Sections 24 and 31 are prejudice based qualified exemptions and there is a requirement to articulate the harm that would be caused in confirming or not that the information is held as well as carrying out a public interest test.

By confirming or denying that Bedfordshire Police, Cambridgeshire and Hertfordshire Constabularies holds any information regarding these techniques would in itself disclose exempt information. Stating information is held would confirm usage and the opposite if there is no such information.

Although the techniques are in the public domain, it is how and when they might be used, that are the sensitive issues for the police service. These techniques could be deployed for more high profile sensitive operations, albeit not necessarily in your force area, therefore the NCND is required to protect other forces that may use them.

Any disclosure under FOIA is a disclosure to the world at large, and confirming or denying the use of specialist techniques which may or may not exist, and which (should they exist) the police service may or may not deploy in specific circumstances would prejudice law enforcement. If the requested information were held by the force, confirmation of this fact would reveal that the police has access to sophisticated communications analysis techniques. This would be damaging as it would (i) limit operational capabilities as criminals/terrorists would gain a greater understanding of the police's methods and techniques, enabling them to take steps to counter them; and (ii) provide an

indication to any individual who may be undertaking criminal/terrorist activities that the police service may be aware of their presence and taking counter terrorist measures.

Conversely, if information were not held by the force, and a denial were issued, this would reveal to those same individuals that their activities are unlikely to have been detected by the police. It may also suggest (whether correctly or not) the limitations of police capabilities in this area, which may further encourage criminal/terrorist activity by exposing a potential vulnerability. Disclosure of the information could confirm to those involved in criminality or terrorism that they are or have been the subject of such activity, allowing them to gauge the frequency of its use and to take measures to circumvent its use. Any compromise of, or reduction in technical capability by forces would substantially prejudice the ability of forces to police their areas which would lead to a greater risk to the public.

This detrimental effect is increased if the request is made to several different law enforcement bodies. In addition to the local criminal fraternity now being better informed, those intent on organised crime throughout the UK will be able to 'map' where the use of certain tactics are or are not deployed. This can be useful information to those committing crimes of drugs and terrorist activities.

For example, to state that no information is held in one area and then exempt information held in another, would itself provide acknowledgement that the technique has been used at that second location. This could have the likelihood of identifying location-specific operations, enabling individuals to become aware of whether their activities have been detected. This in turn could lead to them moving their operations, destroying evidence, or avoiding those areas, ultimately compromising police tactics, operations and future prosecutions.

Any information identifying the focus of policing activity could be used to the advantage of terrorists or criminal organisations. Information that undermines the operational integrity of these activities will adversely affect public safety and have a negative impact on both national security and law enforcement.

#### **Factors favouring confirming or denying whether any other information is held for Section 24**

The public is entitled to know where its public funds are being spent and a better informed public can take steps to protect themselves.

#### **Factors against confirming or denying whether any other information is held for Section 24**

By confirming or denying the use of specialist techniques could render security measures less effective. This could lead to the compromise of ongoing or future operations to protect the security or infra-structure of the UK and increase the risk of harm to the public

#### **Factors favouring confirming or denying whether any other information is held for Section 31**

Better awareness may reduce crime or lead to more information from the public, and the public would be able to take steps to protect themselves. Some information is already in the public domain.

#### **Factors against confirming or denying whether any other information is held for Section 31**

By confirming or denying whether such techniques were used would compromise law enforcement tactics and undermine the partnership approach which would hinder the prevention or detection of crime. This would impact on police resources, more crime would then be committed and individuals placed at risk.

#### **Balance test**

The security of the country is of paramount importance and the police service will not divulge whether information is or is not held if to do so could undermine national security or compromise law enforcement. Whilst there is a public interest in the transparency of policing operations and in this case providing assurance that the police service is appropriately and effectively engaging with the threat posed by the criminal fraternity, there is a very strong public interest in safeguarding both national security and the integrity of police investigations and operations in this area.

As much as there is public interest in knowing that policing activity is appropriate and balanced in matters of national security this will only be overridden in exceptional circumstances.

There is also no requirement to satisfy any public concern over the legality of police operations and the tactics we may or may not use. Forces are already held to account by statute, for example the Police and Criminal Evidence Act and the Regulation of Investigatory Powers Act and independent bodies such as Her Majesty's Inspectorate of Constabulary, the Independent Police Complaints Commission and the Office of the Surveillance Commissioner. Our accountability is therefore not enhanced by confirming or denying whether any information is held.

Therefore it is our opinion that for these issues the balancing test for confirming or denying whether any information is held regarding these techniques is not made out. This argument is obviously transferable to all police tactics.

None of the above can be viewed as an inference that the information you seek 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

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Bedfordshire Police 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 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.