

Request:

1. A summary of the IPCC review of Operation Douglas (known as Operation Waldhorn) which was presented to members of the Police Authority's Audit and Risk Committee on 2 November 2012.
2. A disciplinary review commissioned by a Chief Constable (Operation Douglas)

Section 17 of the Freedom of Information Act 2000 states that:

- (1) A public authority which, in relation to any request for information, is to any extent relying on a claim that information is exempt information must, within the time for complying with Section 1(1), give the applicant a notice which:-
 - (a) states the fact,
 - (b) specifies the exemption in question, and
 - (c) states (if that would not otherwise be apparent) why the exemption applies.

REASONS FOR DECISION

The reason that we are unable to provide you with this information is covered by the following exemption:

S40(2)(a)(b) - Personal Information

Section 40 (2) is a class based exemption, and provides an absolute exemption where disclosure of the personal data would breach the Data Protection principles. Where personal information has been redacted in this case, the Office of the Police and Crime Commissioner considers that disclosure of the personal information would breach the first principle of the Data Protection Act, in that it would not be 'fair and lawful' to the data subject. All individuals have a right to privacy under the Data Protection Act 1998, and the right to respect for their private and family life under Article 8 of the European Convention of Human Rights. It is reasonable that these individuals have an expectation of privacy. The nature of this request deals with a subject that involves violent, career criminals and disclosure of personal information would place individuals at risk of harm. The Office of the Police and Crime Commissioner has a duty of care and confidentiality to the individuals concerned. Whilst there is a public interest in the accountability of public servants, it is not considered that the disclosure of individual names and personal information would add value in this case.

It can be seen that some names have been included. These relate to individuals where it is considered that their senior, public position is such that their expectation of privacy in relation to such matters is lower, there is an increased threshold for accountability and, given the risks to which their public position necessarily exposes them, it is not considered that this would be exacerbated by disclosure.



Section 31 (1) (a) (b) (c)

Section 31 (1)(a)(b)(c) is a prejudice based qualified exemption. There is a requirement to articulate the harm in disclosing the information, as well as considering the public interest. It should be noted that the public interest is not what is of interest to the public, but what is of benefit to society. Lord Wilberforce said in *British Steel Corp v Granada Television Ltd* [1981] AC 1096 at 1168: "There is a wide difference between what is interesting to the public and what is in the public interest to make known"

Considering if the exemption is engaged (Harm in disclosure)

Modern day policing is intelligence led. Information is available publically, and it is a well-known fact that Covert Human Intelligence Sources (CHIS) are used in the prevention and detection of crime, and that they are a valuable intelligence tool in the fight against all types of crime.

Disclosure of the requested information into the public domain would hinder the prevention and detection of crime. For example, it would compromise techniques used in relation to CHIS and, by extension, compromise the ability to protect confidential sources and their families. This fear of risk of exposure and for safety would, in turn, hinder the ability of police forces to recruit and retain sources and so reduce the flow of intelligence into the police service. This then places members of the public at risk of harm from crime.

In addition, the disclosure of the information on CHIS management and handling would enable criminals to counteract police intelligence-gathering methods. This would seriously undermine police operations and future prosecutions. This would be to the detriment of providing an efficient policing service and would compromise the key policing roles of preventing and detecting crime and protecting the public at large. Disclosure of information that undermines the operational integrity of police activities will adversely affect public safety and have a negative impact on law enforcement.

Public Interest Factors favouring disclosure

- General public interest in transparency.
- Enhance public knowledge on how CHIS are used.
- Inform public debate on West Yorkshire Police decision making and integrity.
- Ensure accountability for the appropriate use of public funds.
- Add to information in the public domain to inform a fuller public debate.

Public Interest Factors favouring maintaining the exemption

- Law enforcement tactics would be compromised.
- Individuals would be placed at risk.
- Prevention and detection of crime.
- The revealing of tactics would mean more police resources would be needed.

- Disclosure could increase the chance of identification, or misidentification, of individuals. This places themselves and their families at risk. Arguments of misinterpretation generally carry little weight in considering the public interest, although in this case as it could compromise the health and safety of individuals, then it is considered relevant.

Balancing Test

The subject of the request is currently under discussion in the media and public authority decision making is subject to scrutiny. It is important to add to public debate to ensure it is well informed and that public authorities are transparent and accountable for their actions. There is some public interest in disclosure. However, the public interest in allowing the police to protect the public and individuals through carrying out its core functions of prevention and detection of crime, apprehending and prosecuting offenders and the administration of justice is stronger. It is entirely reasonable for a member of the public to expect the police service to protect information of this nature and therefore maintain their law enforcement capability. The Office of the Police and Crime Commissioner considers, in this case, the factors against complying with section 1(1)(b) to outweigh those in favour of complying. Therefore, the balance lies in favour of non-disclosure and the exemption is engaged.