

Harm in Confirming or Denying Information is Held

Every effort should be made to release information under FOI. However, to confirm or deny the number of under 18's investigated for possessing a firearm and to then break this down by age bracket would undermine ongoing investigations, highlight potentially vulnerable forces, risk the identification of individuals and place an individual in harm's way. Revealing information regarding a forces activity in this area would highlight vulnerable forces. This awareness could help criminals identify different areas in which to operate and different methods to use, thus harm the prevention and detection of crime. Confirmation or denial that information exists could either lead to the identification of existing cases or the lack of an investigation. To confirm what age groups the police have not investigated could highlight to criminals those age brackets in which they should allow members to carry firearms as they are less likely to be investigated. For instance, if you were to identify that no one was investigated for the age of 12 for the possession of a firearm, if a juvenile was carrying a firearm in that year and was 12 years old in your force area they would be aware they were not investigated, hence may start carrying a weapon again or continue to do so.

It is important we neither confirm nor deny information of this nature is held due to the above rationale. To do so would impact upon policing, investigations, potentially identify someone and cause harm to certain individuals. Moreover, during a time where county lines activity is a serious concern (as highlighted by the link below) we would not want to provide information that would allow for criminals to enhance their current methods.

<https://news.npcc.police.uk/releases/county-lines-urban-drug-gangs-target-coastal-communities>

Public interest considerations

Section 40 (5)

This section is absolute and Class-based, hence no public interest test is required.

Section 30 (3)

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

Confirming or denying that information exists relevant to this request would lead to a better informed public improving their knowledge and understanding of how the Police Service conduct investigations.

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

Under FOI 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 an investigation and in such cases West Midlands Police takes advantage of its ability under FOI legislation, to, where appropriate, neither confirm or deny that the information requested, is or is not held.

Confirmation that information is held would prejudice how an investigation is being carried out by potentially identifying an individual and them moderating their behaviour to avoid detection. Furthermore, to make an individual aware they are being investigated would release sensitive information into the public domain prejudicing that investigation.

Section 31(3)

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

By confirming or denying that information relevant to the request exists, would lead to better public awareness into the tasks faced by police forces. This may lead to more information (intelligence) being submitted from the public which may culminate in a reduction of crime.

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

Confirming or denying that information exists would compromise the effective delivery of operational law enforcement and prejudice the prevention and detection of crime. For instance, if offenders were made aware that there was a significant number of under 18's investigated in certain forces and then there were a couple of forces where numbers for investigations was significantly low they could move their activities to those force areas. The reason behind such a move could be criminals inferencing that police forces in those areas would not be as well equipped to deal with activity of this nature as those forces that have carried out significant investigations due to the nature in which evidence based policing is used to combat crime. Moreover, if it was identified that individuals who are under a certain age have not been investigated by a force for a period of three years it may increase the likelihood of gangs using that age bracket to carry firearms. This could increase the activity of offences relating to firearms being carried out within that force area which in turn would prejudice the prevention and detection of crime.

Section 38 (2)

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

Confirmation of whether information is or isn't held would provide reassurance to the general public that police forces act in a transparent manner. This awareness could be used to improve any public consultations/debates in relation to this subject.

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

Confirming or denying this information exists could lead to the loss of public confidence in the ability of West Midlands Police to protect the wellbeing of the community.

Disclosure of this information cannot only lead to individuals being targeted and caused physical harm as gang members ascertain whom is being investigated but also other members of the public in the vicinity, or police officers trying to protect people. Also, information that causes speculation has in the past caused innocent people to be targeted following rumour and speculation.

Balancing Test

Whilst there is a public interest in the transparency of policing investigations and in this case providing assurance that the police service is appropriately and effectively engaging with the threat posed, there is a very strong public interest in safeguarding individuals, the integrity of police investigations and preventing harm to operational policing.

As highlighted by the above concerns to either confirm or deny the existence of information would be harmful to operational policing, investigations and individuals, therefore West Midlands Police neither confirm nor deny they hold any information in relation to this request.

None of the above can be viewed as an inference that information does or does not exist.