

Harm in confirming information is held

Modern day policing is intelligence led and law enforcement depends upon the development of intelligence and the gathering and security of evidence in order to disrupt criminal behaviour and bring offenders to justice. As criminals adapt and exploit new technology, the police need to respond by overcoming hi-tech barriers in order to meet their responsibilities. In this case the information relates to the extraction of data from individuals' mobile devices, albeit victim or offender. By revealing whether information is held in relation to the specific technology, will in itself be revealing tactical information which would undermine the process of preventing or detecting crime and the apprehension of prosecution of offenders.

Factors favouring confirming or denial – S31

Confirming or denying that West Midlands Police holds information would raise the general public's awareness around techniques used to extract information from mobile phones and show responsibility to delivery of effective operational law enforcement.

Factors against confirming or denying – S31

By confirming or denying whether information is held could compromise West Midlands Police force's law enforcement capabilities and the effectiveness of the force will be reduced. To confirm or deny if information is held could undermine current and/or future strategies when carrying out investigations and gathering evidence may be compromised.

The personal safety of individuals is of paramount importance to the Police Service and must be considered in response of every release. A disclosure under Freedom of Information is a release to the world and, in this case, confirming or denying if the information is held in relation to gathering evidence from mobile phones, would undermine the evidence gathering process of any investigative inquiry relating to offences, some of which may be serious cases such as murder or rape.

Factors favouring confirming or denial – S24

Confirming or denying that any other information exists relevant to the request would lead to a better informed public and the public are entitled to know how public funds are spent. The information simply relates to national security and disclosure would not actually harm it.

Factors against confirming or denial - S24

To confirm or deny whether West Midlands Police hold any information would allow inferences to be made about the nature and extent of national security related activities which may or may not take place. This could enable terrorist groups to take steps to avoid detection, and as such, confirmation or denial would be damaging to national security.

By confirming or denying any policing arrangements of this nature would render national security measures less effective. This would lead to the compromise of ongoing or future operations to protect the security or infra-structure on the UK and increase the risk of harm to the public.

Balancing Test

As always the Freedom of Information Act has a presumption of disclosure, unless when balancing the competing public interest factors the prejudice to the community outweighs the benefits. In this case, there is an argument for confirming or denying, inasmuch as the public have a right to know that every effort is made to gather all relevant evidence, including extracting data from mobile phones, but this must be balanced against the negative impact these disclosures can make.

Law Enforcement is reliant on community engagement, intelligence and evidence gathering and when it is appropriate, information is given to the public. What has been established in this case is the fact that confirming or denying that information relating to technologies used when extracting data would be harmful and have an adverse effect on the investigative process and on the public prevention or detection of crime and the apprehension or prosecution of offenders. This places the victims of such

offending at a greater risk towards their health and wellbeing and is not an action the Police Service would be willing to take. These negatives outweigh any tangible community benefit and therefore the balance does not favour disclosure at this time.