

Request Reference: 1666A/22

*Exempt information:*

Q1. *(With regard to covert / undercover operations)*

*Qualified exemptions:*

*Section 24(2) - National security*

*Section 30(3) - Investigations and proceedings conducted by the public authority*

*Section 31(3) - Law enforcement*

### Harm

Any release under the Freedom of Information Act (FOIA) is a disclosure to the world, not just to the individual making the request. Providing any notice that confirms or denies the existence of any other policing operations at protests would make security measures less effective. In addition, the Police are charged with enforcing the law, detecting and preventing crime, and protecting the communities we serve. Confirming or denying whether any other information is held would impact on the effectiveness of police investigations, thereby hindering the prevention and detection of crime.

The threat from terrorism cannot be ignored. It is generally recognised that the international security landscape is increasingly complex and unpredictable. The current **UK threat level** from international terrorism, based on intelligence, is assessed as SUBSTANTIAL which means that a terrorist attack is likely.

In order to counter criminal and terrorist behaviour, it is vital that the police have the ability to work together, where necessary covertly, to obtain intelligence within current legislative frameworks to assist in the investigative process to ensure the successful arrest and prosecution of offenders who commit or plan to commit crime including acts of extremism and terrorism.

To achieve this goal, it is vitally important that information sharing takes place between police officers, members of the public, police forces as well as other law enforcement bodies within the United Kingdom. Such action would support policing and counter-terrorism measures in the fight to deprive criminals including extremists of their ability to commit crime.

The impact of providing information under FOI which aids in identifying whether or not West Midlands Police has conducted any other counter criminal or terrorist operations at protests would provide those intent on committing such acts in the future with valuable information as to where the police are targeting their investigations.

### **Public Interest Test**

*Section 24 - Factors favouring confirmation or denial:*

Providing confirmation or denial as to the extent of any operations safeguarding matters of national security at large scale events would improve public confidence in the work of the police and reassure them that West Midlands Police is taking necessary steps to counter extremism and terrorism.

*Section 24 - Factors against confirmation or denial:*

If West Midlands Police were to confirm or deny that any other information was or was not held, this could prejudice the Government's ability to maintain national security. It is not in the public interest to disclose the capabilities of the police service and other UK authorities and the operations that they may or may not use to safeguard the country. This would allow determined individuals the ability to, over time, identify which public authorities hold certain types of national security information and which do not, thereby allowing inferences to be drawn about what authorities or bodies might have an interest in certain matters of national security.

Any response that has the potential to undermine ongoing and future operations to protect the security of the United Kingdom would significantly increase the risk of harm to the community at large. Such actions would obviously not be in the best interest of the public.

*Section 30 - Factors favouring confirmation or denial:*

Disclosing information about any investigations under an operations banner would provide a greater transparency in the investigating process and the actions of a public authority. It is clear there is a public interest in public authorities operating in as transparent a manner as possible, as this should ensure they operate effectively and efficiently.

*Section 30 - Factors against confirmation or denial:*

There is an inherently strong public interest in public authorities carrying out investigations to prevent and detect crime. This ensures that offenders are brought to justice and that the necessary actions are taken to safeguard public funds and resources. To allow the effectiveness of investigations to be reduced, as described in the harm above, is not in the public interest. The Police need to be allowed to carry out investigations effectively away from public scrutiny until such times as the details need to be made public, otherwise it will be difficult for accurate, thorough and objective investigations to be carried out.

*Section 31 - Factors favouring confirmation or denial:*

This FOIA request concerns operations conducted by West Midlands Police at large scale protests. This may include the involvement of West Midlands Police in multi-agency operations, given groups who could be involved, there is likely to be a public interest into what specific involvement each agency had within such an investigation. Therefore, this in itself favours confirming whether the information is held.

*Section 31 - Factors against confirmation or denial:*

To confirm or deny that any other information is held would compromise law enforcement tactics, including covert activity, in areas which may include serious and organised criminality, as well as extremism and counter terrorism. This would hinder the UK Police service's ability to prevent and detect criminality overall. By confirming that West Midlands Police had conducted any operations of such a nature, or alternatively stating that they had not, would give vital information to criminals regarding areas of more or less policing activity (including covert policing). Criminals could take steps to avoid detection if they are aware of force areas that do not take part in such operations. The ability of the UK police service to effectively investigate organised crime, or counter terrorist behaviour would be severely compromised.

Where current or future law enforcement capabilities of the force may be compromised by the release of information, it is unlikely to be in the interest of the public.

Balance Test

For this public interest test, factors favouring confirming or denying whether information is held must be weighed against factors against confirming or denying whether information is held. It is important to understand however that 'public interest' in the context of FOIA is not what the public is interested in, but what is in the best interests of society.

Whilst there is a public interest in the transparency of policing resources and providing assurance that the police service is appropriately prepared and effectively engaging with the threat posed by various groups or individuals, there is a very strong public interest in safeguarding the integrity of police resources and operations in the highly sensitive areas such as extremism, crime prevention, public disorder, and terrorism prevention.

The security of the country is of paramount importance and West Midlands Police will not divulge information, if to do so would place the safety of an individual at risk, undermine national security or compromise investigations or law enforcement. It is therefore my opinion that for these issues the balancing test for confirming or denying the existence of any information concerning covert or undercover operations is not made out and favours maintaining the exemption.

No inference should be taken from this refusal that information does or does not exist.