

EXEMPTION NOTICE

Reference: 3111/09

Information Requested:

The areas where stop and searches under Section 44 of the Terrorism Act 2000 have taken place.

HARM in relation to prejudice based exemptions

Section 24 (1)

Future police operations may be prejudiced if information relating to the use of police powers under the Terrorism Act and related strategy and tactics that any figures may allude to is inappropriately placed into the public domain. The requested statistics can be combined with information provided from other areas and a 'map' of proactive police action in relation to terrorist activity can be drawn. This information could aid terrorists when planning their activities and make frustrating their aims more difficult as they identify areas where detection seems less likely. Ultimately this would increase the threat to national security.

Section 30 (1)

Release of information through the Freedom of Information Act removes any of the legal strictures and assumptions of confidentiality associated with the due legal process. Some of the information you have requested may relate to current investigations and as a consequence these could be jeopardised where release of information regarding an individual was identified. Ongoing police investigations and/or pending trials may be compromised when the information contributes to the identification of an individual or is used as counter intelligence against the police service. This ultimately has safety implications for the general public, placing the well being of citizens at risk and undermining Police operations.

Section 31 (1)

Where police investigations are continuing and where a subject may have been released without charge, their future might irrevocably be damaged if their identity could be gleaned from the information. In addition, if individuals and/or locations were identified, this would heighten risks to those individuals and potentially to other persons who might reside in premises vacated by relevant individuals. The experience of attacks (or unwelcome media attention) on suspected paedophiles following press attention (or inaccurate local community targeting) indicates what might be anticipated were this detailed data to be released.

PUBLIC INTEREST TEST

Public interest considerations favouring disclosure:

Section 30 (1)

Accountability

Such information may demonstrate to the general public that West Midlands Police are actively involved in the prevention and detection of terrorist-based activities, particular following high-profile events. In this case, forces may be obliged to demonstrate to the general public that they are actively involved in the prevention and detection of terrorist-based activities by providing statistical evidence of their performance

Section 24 (1), Section 31 (1)

Public debate

The release of accurate information will inform and enhance public debate on particular subjects that may be topical. In this case, following high-profile terrorist activity and the release of such

statistics may inform public debate and boost levels of confidence within the community that the potential threat is being negated by the actions of the authorities.

Public interest considerations favouring non-disclosure:

Section 24 (1), Section 30 (1)

Investigations

It is the Association of Chief Police Officer's approach that information relating to an investigation will rarely be disclosed under the provisions of the Freedom of Information Act. Whilst such information may be released in order to serve a 'tangible community benefit' – to prevent or detect crime or to protect life or property - it will only be disclosed following a Freedom of Information request if there are strong public interest considerations favouring disclosure. The further the considerations favouring disclosure are from a core policing purpose, the lighter the considerations will be.

On-going investigations

It would not be in the public interest to release information that may be of assistance to offenders or prevent an individual from being brought to justice. The right to a fair trial is of paramount importance and any disclosure could be subject to sub judice. In this case, forthcoming court proceedings may be prejudiced by the release of data which may lead to the identification of specific cases. In the worse case scenario, inappropriate disclosure may result in a mistrial.

Section 24 (1), Section 31 (1)

Efficient and effective conduct of the service/a force

Information relating to policing of terrorism activities is sensitive and inappropriate disclosure may compromise the ability of the force in the future to prevent and detect crime and protect life and/or property.

Law Enforcement

Where current or future law enforcement role of the force may be compromised by the release of information, then this is unlikely to be in the interest of the public. In this case, for the reasons outlined above, providing this detailed information could jeopardise future police operations and compromise the future prevention and detection of crime.

Balancing Test

For a public interest test, issues that favour release need to be measured against issues that favour non-disclosure. The public interest is not what interests the public, or a particular individual, but what will be the greater good, if released, to the community as a whole.

The issues of awareness and public debate are noted. However, whilst the force is accountable for its counter-terrorism activities, it is essential that the release of information does not enable a national "map" to be drawn up indicating those geographical areas where an individual engaged in terrorist activity would be less likely to be stopped by the police.

Although release might provide a greater transparency in the investigating process, there are already a number of checks and balances on authorities to assess whether investigations are conducted appropriately. Annual figures regarding searches under sections 44(1) and 44(2) of the Terrorism Act 2000 and resultant arrests are released on the Ministry of justice website. In addition if a person feels that they have been treated inappropriately by the police there are clear processes in place to ensure that matters are investigated thoroughly and appropriately. These processes are in place to ensure that all parties are given access to all the appropriate information at the time of any trial and subsequently through court records.

Releasing information outside of such a schedule could undermine the smooth running of these processes and would impact on future judicial proceedings. Therefore the wider public interest lies in protecting the ability of the public authority to conduct an effective investigation and consider the outcome.

Having considered the arguments for and against, the public interest test favours maintaining the exclusion of the duty to confirm or deny whether the information exists. It is not in the public interest to disclose information that may compromise the force's ability to fulfil its core function of law enforcement or to endanger the health and safety of the general public, or our officers.

This means that in this specific case at this time it would not be in the public interest to release information to this level of detail.