

22 February 2010

Your Ref:

Our Ref: 0049/2010

Michael Traill

E mail:- request-27689-
odf70e92@whatdotheyknow.com

Force Disclosure Unit
Police Headquarters
173 Pitt Street
GLASGOW
G2 4JS

Tel: 0141 435 1204

Fax: 0141 435 1218

Dear Mr Traill

FREEDOM OF INFORMATION REQUEST REFERENCE NUMBER 0049/2010

I refer to your request for information dated 24 January 2010, which was received by Strathclyde Police on that date.

My request is for information relating to payments made to informers during 2009.

Please provide a breakdown of each transaction for each informer and for what reason the money was provided. In recognition that you cannot provide names for obvious reasons, simply labeling people as

informer 1, informer 2 etc is perfectly acceptable.

For the avoidance of doubt the term 'informer' is more correctly referred to as a Covert Human Intelligence Source (CHIS). This is the term used in the Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA) which governs the use of CHIS by police forces in Scotland. Throughout the remainder of this response I have used this term.

Your request for information has now been considered and on 22 February 2010 the decision was made not to grant your request. In accordance with the Freedom of Information (Scotland) Act 2002 (the Act), this letter represents a Refusal Notice. Section 16 of the Act requires Strathclyde Police, when refusing to provide such information because the information is exempt, to provide you with a notice which: (a) states that it holds the information, (b) states that it is claiming an exemption, (c) specifies the exemption in question and (d) states, if that would not be otherwise apparent, why the exemption applies. The exemptions applicable to the information are as follows:

Section 34 (1) (a) & (b) and (3) – Investigations by a Scottish Public Authority.

Strathclyde Police uses CHIS for the purposes of obtaining information in support of investigations which could lead to the prosecution criminals, or indeed, is used in the prevention or disruption of criminal activities.

Specific payments made to CHIS relate directly to individual investigations which Strathclyde Police has a duty to conduct to ascertain whether a person should be prosecuted for an offence or, prosecuted for an offence is guilty of it. Payments also relate directly to other investigations conducted by the Force which are, by virtue of Her Majesty's prerogative or of powers conferred by or under any enactment, conducted by the Force for the purposes of ascertaining whether a person has failed to comply with the law and relates to the obtaining of information from confidential sources.

The requested information therefore is held by the Force for the purposes of such aforementioned investigations and as such is exempt from disclosure.

This is a non absolute exemption and requires the application of the public interest test.

Section 35 (1) (a) & (b) – Law Enforcement.

Disclosure of the information requested would identify individual payments, provide detail on individual investigations and outline the involvement of and assistance provided by individual CHIS.

Those persons undertaking the role of CHIS do so at very considerable risk to their personal safety and that of their families. The relationship between a CHIS and the Force is based on an understanding of strict confidentiality. CHIS are well aware that they rely, for their safety, on information relating to them being kept confidential by the police. Any disclosure of such information may be viewed by CHIS as a lessening in this confidentiality which may persuade existing CHIS to withdraw their services and would discourage persons from becoming CHIS in the future.

Further, disclosure of the information would allow the criminal fraternity, particularly those involved in organised crime groups, to make links based on their own criminal behaviour that would allow them to identify CHIS activity which is affecting their own criminal activities or network. This could again, lead to the identification of CHIS but even where this does not occur the very fact that criminals knew or suspected that a CHIS was impacting on their activities would be enough to dissuade individuals from acting as CHIS.

Conversely, disclosure of the information requested would also allow criminals to ascertain that there was no CHIS activity affecting their activities. This would encourage these persons to continue with their criminal activities with a higher degree of confidence.

In summary, disclosure of the information requested would discourage those persons presently acting as CHIS from continuing in this role and would adversely affect the recruitment of CHIS in the future. This would deny the Force valuable information with which to conduct their key law enforcement role.

This then would, or would be likely to, prejudice substantially the prevention and detection of crime and the apprehension or prosecution of offenders.

This is a non absolute exemption which requires the application of the public interest test.

Section 39 (1) – Health, Safety and the Environment

As previously stated those persons who act as CHIS do so at considerable risk to their own safety and that of their families.

Where a person is identified as CHIS they are at risk of revenge attacks and attacks designed to deter them and others from carrying out this role. The violence used in such attacks can be severe and extreme, as; in particular, organised crime groups seek to protect their considerable criminal activities. Disclosure of the information requested would allow criminals to make assumptions on individuals based on patterns of behaviour which would

lead to persons being identified as CHIS or indeed, to persons being wrongly identified as CHIS and subsequently subjected to violence.

The requested information relates to single individuals, with the attendant increased risk of them being identified through disclosure.

Therefore disclosure would, or would be likely to, endanger the physical or mental health or safety of an individual.

This is a non absolute exemption which requires the application of the public interest test.

Public Interest Test

The public interest factors favouring disclosure surround the accountability to the public for the Forces activity in relation to CHIS and the spending of public funds in this area. Such accountability always provides a strong public interest element in favour of disclosure.

That said the disclosure of the information which has been requested, could significantly compromise the future law enforcement role of the Force, place the personal safety of individuals and the general public in jeopardy, and adversely affect the bond of confidentiality which presently exists between the Force and persons acting as CHIS.

The Force is subject of oversight through the Office of the Surveillance Commissioner in relation to CHIS and as such is subject of regular inspections by this body.

The disclosure of the information would provide criminals and in particular organised criminal groups with information in relation to police capabilities and would have an adverse affect on criminal investigations and public safety.

It is therefore considered that in this instance the balance of the public interest test favours retention of the information requested.

I have taken into consideration the decision made last year by the Scottish Information Commissioner in which a similar question was asked (Decision 037/2009, Mr Stephen Stewart of the Daily Record and the Chief Constables of Central, Grampian, Lothian & Borders, Strathclyde and Tayside Police). I can confirm that in this instance and in line with this decision, I perceive there to be no harm in the disclosure of the overall annual total paid to CHIS by Strathclyde Police for the financial year period 2008 / 09.

The total payments made to CHIS by Strathclyde Police for the year 2008 / 09 was;

£221, 598.24

The decision notice issued by the Commissioner can be accessed on the website of the Office of The Scottish Information Commissioner at the following link;

<http://www.itspublicknowledge.info/home/ScottishInformationCommissioner.asp>

By way of further information which may be of interest to you, as I am sure that you are aware, oversight of CHIS is provided by the independent Office of the Surveillance Commissioner. In Section 10 of his Annual Report of 2007 / 08 he makes comment on requests for information by means of the Act. Information on the role of the Commissioner and a copy of the aforementioned report is available on the website of the Office of the Surveillance Commissioner at the following link;

http://www.surveillancecommissioners.gov.uk/docs1/osc_annual_rpt_2007_08.pdf

The Code of Practice in relation to Covert Human Intelligence Sources issued by Scottish Ministers under section 24(1) of the Regulation of Investigatory Powers (Scotland) Act 2000 is available on the Scottish Government website at the following link;

<http://www.scotland.gov.uk/Publications/2003/03/16694/19530>

I hope this information is helpful, however, if you are not satisfied with the way in which your request has been dealt with, you are entitled in the first instance to request a review of the decision made by the Force. Should you wish to request such a review, please write to Mrs Sheena Brennan, Disclosure Manager at the above address within 40 working days of receiving this letter. Once informed of the Review Panel's decision, if you are still not satisfied, then you are entitled to apply to the Scottish Information Commissioner within six months for a decision. Contact details are; Office of the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS, telephone 01334 464610. I would like to take this opportunity to thank you for your interest in Strathclyde Police.

Should you require any further assistance concerning this matter please contact me directly on 0141 435 1204 quoting the reference number given.

Yours sincerely

John Cameron
Freedom of Information Officer