



**Date:** 1 July 2016  
**Our Reference:** FOIA-2016-0044  
**Your Reference:** N/A

(Via email: request-333230-6d9fdb06@whatdotheyknow.com)

Dear Mr Sands,

## **RE: Freedom of Information Act 2000 Request**

I write in response to your Freedom of Information Act 2000 (or 'FoIA 2000') request dated 7 May 2016. I note from your request that you seek the following information:

'Please publish all the modules of the National Police Public Order Training Curriculum including an up-to-date version of E4 - Water Cannon in Public Order, already released in its 2013 version.'

## **Decision**

When a request for information is made under the FoIA 2000 a public authority must inform you, when permitted, whether the information requested is held. It must then communicate that information to you. If a public authority decides that it cannot comply with all or part of a request, it must cite the appropriate section or exemption of the Act and provide you with an explanation.

It is important to note that a FoIA 2000 request is not a private transaction. Both the request itself and any information disclosed are considered suitable for open publication, that is, once access to information is granted to one person under the FoIA 2000, it is then considered public information and must be communicated to any individual should a request be received. Any information released under the FoIA 2000 will also be published on the College of Policing's website at a later date.

Having conducted careful searches for information relevant to your request, I can confirm that there is information held and I have disclosed this in the attached documents. However, due to the sensitivity of some of the information contained within the materials held, the following exemptions contained within the FoIA 2000 were engaged:

- **Section 31 (1) (a) and (b)**                      **law enforcement**
- **Section 38 (1) (b)**                              **health and safety**

Your attention is drawn to the refusal notice in **Appendix A** which provides the reason behind my decision.

As such, certain parts of information have been redacted on this basis. The table below sets out the parts of the disclosed information relevant to your request which contains redactions and the exemptions which have been applied in each case.

		FOIA 2000 exemptions applied	
Document	Pages containing redacted information	Section 31 (1) (a) and (b) law enforcement	Section 38 (1) (b) health and safety
<b>Redacted Disclosures 1 (122 Pages)</b>	Pages 7-19, 28-56, 62, 72-122	<b>X</b>	<b>X</b>
<b>Redacted Disclosures 2 (58 Pages)</b>	Pages 5, 8-20, 27-34, 41-44, 47-51, 53-58	<b>X</b>	<b>X</b>
<b>Redacted Disclosures 3 (100 pages)</b>	Pages 3, 11-22, 26, 36-55, 57-59, 67-73, 81-88, 95-99	<b>X</b>	<b>X</b>
<b>Redacted Disclosures 4 (62 pages)</b>	Pages 4, 13-29, 38-62	<b>X</b>	<b>X</b>
<b>Redacted Disclosures 5 (84 pages)</b>	Pages 7-28, 30, 50, 62-73, 77	<b>X</b>	<b>X</b>
<b>Redacted Disclosures 6 (106 pages)</b>	Pages 7, 11-13, 23, 25-26, 29-34, 36-38, 50-52, 70, 91-99, 101-104	<b>X</b>	<b>X</b>

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### **Further information**

In addition, further information captured by your request can be accessed via the Authorised Professional Practice (APP) on Public Order which is available at: <https://www.app.college.police.uk/app-content/public-order/>

May I take this opportunity to thank you for your interest in the College of Policing. Your attention is drawn to the complaint rights provided in **Appendix B**.

Yours sincerely,

**Neil Smith | Freedom of Information Caseworker**  
**Ethics, Integrity and Public Interest Unit**  
**College of Policing**

Email: [FOI@college.pnn.police.uk](mailto:FOI@college.pnn.police.uk)

Website: [www.college.police.uk](http://www.college.police.uk)

## Appendix A

### Refusal Notice

#### Section 31 (1) (a) and (b) - Law Enforcement

Section 31 provides:

The College of Policing notes that Section 31 provides –

‘(1) Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice—

- (a) the prevention or detection of crime,
- (b) the apprehension or prosecution of offenders’

There are two essential elements of the application of this exemption:

1) would disclosure of the information be likely to prejudice the prevention or detection of crime?

if so

2) does the public interest in maintaining the exemption outweigh the public interest in disclosure?

The provision to refuse access to information under section 31 (1) (a) of the Act is both qualified and prejudice based. I am therefore, required to establish the nature of the prejudice and/or harm that may result from disclosure and where prejudice and/or harm is established but not certain, determine the likelihood of it occurring. In addition, I must also conduct a public interest test to determine whether the public interest lies in disclosing or withholding the requested information.

#### Harm and prejudice considerations

The case of *Hogan v IC and Oxford City Council*,<sup>1</sup> confirmed that the requisite prejudice must be real, actual or of substance; the exemption is engaged if disclosure is more likely than not to cause such prejudice, or if there is a very significant and weighty chance of it, even if falling short of being more probable than not.

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<sup>1</sup> [2011] 1 Info LR 588

I consider that the disclosure of the requested information has the very likely potential to prejudice the prevention or detection of crime and the apprehension or prosecution of offenders by undermining the effectiveness of police tactics and empowering offenders with information which could enable them to successfully defeat such tactics and potentially avoid apprehension. Disclosure of any information which is likely to have a real and adverse effect on the effectiveness of law enforcement cannot be said to be in the public interest.

Please find the public interest test considerations that I have identified and considered in relation to my application of section 31 (1) (a) and (b) of the FoIA 2000 stated below.

### **Public interest considerations favouring disclosure**

There is a clear public interest in making appropriate information available to the public in order to promote openness, transparency and to provide reassurance to the public, in particular, in terms of how the police in the UK respond to public order incidents. The increased public awareness of how law enforcement operate and the way in which the police seek to bring such incidents to a safe conclusion would promote a feeling of safety in the general public and provide them with information which can be used to help them protect themselves. There is also some information relating to public order policing already in the public domain and disclosure would ensure any information already disclosed is accurate and up to date.

### **Public interest considerations favouring non-disclosure**

I consider that disclosure of the requested information runs the very real risk of disclosing the law enforcement tactics and capabilities in respect of public order policing. Disclosure of the information requested is highly likely to result in law enforcement tactics being compromised, which would, in turn, be highly likely to hinder the prevention and detection of crime and the subsequent apprehension and prosecution of offenders. It also has the very real risk of compromising the ability of police to bring incidents and operations to a safe conclusion and therefore, to compromise the safety of officers and the general public. Disclosure of information that undermines the operational integrity of law enforcement and that will adversely affect public safety and have a negative impact on law enforcement generally cannot be said to be in the public interest.

### **Evaluation**

As stated above, the public interest test is a consideration of whether the community benefit of possession of the information outweighs the potential harm. It is not an evaluation of what interests the public. On

weighing up the competing interests, I find that the public interest test favours partly withholding the requested information on this occasion.

I acknowledge that there is a clear public interest in transparency in relation to how police conduct policing operations, in particular in a public order context, however, this must be weighed against the very real and considerable risk that disclosure of the information may bring, in particular as regards to disclosure of law enforcement tactics.

I consider that the disclosure of information that is highly likely to provide assistance in undermining police tactics and law enforcement operations and thereby prejudice the effective prevention or detection of crime cannot be in the public interest and as such, I am unable to provide you with the information requested under section 31 (1) (a) and (b) of the FoIA 2000.

### **Section 38 (1) (b) (health and safety)**

Section 38 provides –

‘(1) Information is exempt information if its disclosure under this Act would, or would be likely to:  
(b) endanger the safety of any individual.’

The provision to refuse access to information under Section 38 (1) (b) of the FoIA 2000 is both qualified and prejudice based. As such, I must establish the nature of the prejudice and/or harm that may result from disclosure and where prejudice and/or harm is established but not certain, determine the likelihood of it occurring. In addition, I must also conduct a public interest test to determine whether the public interest lies in disclosing or withholding the requested information.

### **Prejudice and harm considerations**

The disclosure of the requested information has the likely outcome of disclosing law enforcement tactics and capabilities in respect of public order policing. The disclosure of this information would be very likely to assist offenders seeking to defeat police tactics and avoid apprehension which would in turn endanger the safety of police officers, as well as anybody in close proximity to what would be likely to be an already volatile situation. Disclosure of this information would allow an offender to alter their behaviour in order to defeat police tactics which would be very likely to provide an advantage to offenders in avoiding apprehension and would assist in increasing the confidence offenders seeking to resist arrest and potentially cause harm to officers as well as bystanders.

Please find the public interest test considerations that I have identified and considered in relation to my application of section 38 (1) (b) of the FoIA 2000 stated below.

### **Public interest considerations favouring disclosure**

There is a clear public interest in making appropriate information available to the public. The release of such information promotes transparency in terms of how the police seek to bring public order incidents to a safe conclusion and contributes in promoting a sense of safety and wellbeing in the public.

### **Public interest considerations favouring non-disclosure**

The safety of all individuals is paramount and it is the view of the College that the disclosure of the requested information is likely to reveal policing tactics in respect of public order policing. This has the very likely potential to place law enforcement personnel and members of the public at risk of harm as this information could be used by criminals to adopt counter-measures to avoid apprehension and arrest and adversely affect the police's ability to bring law enforcement operations to a safe conclusion.

### **Evaluation**

On weighing up the competing interests, I find the public interest test favours withholding the requested information. On the basis of the information above, the disclosure of information is highly likely to endanger law enforcement personnel as well as the general public. Disclosure of information that is likely to endanger any person cannot be in the public interest and as such, I am unable to provide the information requested under section 38 (1) (b) of the FoIA 2000.

## **Appendix B**

### **Complaint Rights**

If you are dissatisfied with the handling procedures or the decision of the College of Policing made under the Freedom of Information Act 2000 (the Act) regarding access to information you can lodge a complaint with the College of Policing to have the decision reviewed.

Complaints should be made in writing, within **forty (40) working days** from the date of the refusal notice, and addressed to: FOI team, Central House, Beckwith Knowle, Otley Road, Harrogate, North Yorkshire, HG3 1UF or email: FOI@college.pnn.police.uk

In all possible circumstances the College of Policing will aim to respond to your request for internal review within **20 working days**.

#### **The Information Commissioner**

If, after lodging a complaint with the College of Policing you are still dissatisfied with the decision you may make application to the Information Commissioner for a decision on whether the request for information has been dealt with in accordance with the requirements of the Act.

For information on how to make application to the Information Commissioner please visit their website at <https://ico.org.uk/for-the-public/official-information/>.

Alternatively, write to:

#### **Information Commissioner's Office**

**Wycliffe House**

**Water Lane**

**Wilmslow**

**Cheshire**

**SK9 5AF**

**Phone: +44 (0)1625 545 700**