

PROTECT PERSONAL

Our Ref: 441.2016-17

Your Ref:

Date: 06 September 2016



Police and Crime
Commissioner
North Yorkshire



Joint Corporate Legal Services

Neil Wilby <request-350296-9eeb1fd1@whatdotheyknow.com>

Dear Mr Wilby

FREEDOM OF INFORMATION REQUEST REFERENCE NO: 441.2016-17

I write in connection with your request for information which was received by North Yorkshire Police on 08 August 2016. I note you seek access to the following information:

Please provide the following information concerning Operation Rome, an investigation into complaints of criminal harassment that, according to the North Yorkshire Police & Crime Commissioner, cost local taxpayers £409,970 and ran from 2011 until July 2014.

1. Name(s)/rank(s) of Gold Commander of this operation.
2. Name(s)/rank(s) of Senior Investigating Officer(s).
3. Policy log (sometimes described as the policy book)
4. Final investigation report (it is accepted that items 3. and 4. will be redacted to protect exempted personal information).
5. All documents connected with collection, classification and codifying of financial information that produced the alleged final investigation cost of £409,970.

Please also provide the following information concerning Operation Hyson, the civil harassment claim that followed Operation Rome.

6. Name(s)/rank(s) of Gold Commander of this operation.
7. Name(s)/rank(s) of Senior Investigating Officer(s).
8. Policy log (sometimes described as the policy book)
9. Final investigation report (it is accepted that items 8. and 9. will be redacted to protect exempted personal information).

Extent and Result of Searches to Locate Information

To locate the information relevant to your request searches were conducted within North Yorkshire Police.

I can confirm that the information you have requested is held by North Yorkshire Police.

Decision

I have today decided to disclose the located information to you.

Previous requests in relation to Op Rome and Op Hyson have already been received and responded to, therefore some of the following information is what has already been released.

PROTECT PERSONAL

Jane Wintermeyer BSc (Hons) Acting Force Solicitor & Head of Legal Services
Police Headquarters | Newby Wiske Hall | Northallerton | North Yorkshire | DL7 9HA
DX No 68810 NORTHALLERTON 2 | Telephone 01609 789297 | Fax 01609 789987

Non-emergency
Number



Operation Rome

1. Name(s)/rank(s) of Gold Commander of this operation.

Operation Rome was headed by DCC Madgwick.

2. Name(s)/rank(s) of Senior Investigating Officer(s).

Detective Superintendent
Head of Professional Standards

I am exempting the names of these individuals pursuant to Section 40(2) – Personal Information. Please see the exemption explanation below.

3. Policy log (sometimes described as the policy book)

I am exempting this information under Section 31 and 40 of the Freedom of Information Act. Please see the exemption explanation below.

4. Final investigation report (it is accepted that items 3. and 4. will be redacted to protect exempted personal information).

I am exempting this information under Section 31 and 40 of the Freedom of Information Act. Please see the exemption explanation below.

5. All documents connected with collection, classification and codifying of financial information that produced the alleged final investigation cost of £409,970.

Details relating to the figure £409,970 have already been provided within previous requests. There were no financial codes or classification, but a one-off manual estimate. The below is what has already been released in relation to this figure.

The costings document is contained within Legally Privileged documentation and is therefore exempt under Section S42 - Legal Professional Privilege. Please see the exemption explanation below. However, information was extracted from the document to provide the following details.

- Police officer time from December 2011 to September 2014; 94.6 months - £386,347
- Legal services work from October 2010 to June 2014; 243.1 hours - £7,424.73
- Civil disclosure work from September 2011 to October 2014; 352 hours - £5,181.44
- Related complaints matters; 82 hours - £1,708.88
- Chief Officer time; 259.08 - £9,308.85

The figure was arrived at following a manual estimate by the departments involved. This is the best estimate of costs that can be provided, and is the recorded information held to answer your query.

Please note the manual estimate did not involve any time recording, time-sheets or electronic recording systems. The exercise has not been repeated since and officer time on specific operations is not recorded routinely across North Yorkshire Police.

Operation Hyson

6. Name(s)/rank(s) of Gold Commander of this operation.

Operation Hyson was headed by ACC Kennedy

7. Name(s)/rank(s) of Senior Investigating Officer(s).

No information held as Op Hyson was a civil case.

8. Policy log (sometimes described as the policy book)

No information held as Op Hyson was a civil case.

9. Final investigation report (it is accepted that items 8. and 9. will be redacted to protect exempted personal information).

No information held as Op Hyson was a civil case.

In addition to the above, I note that you have submitted several requests under the Freedom of Information Act, which have been in relation to the same or similar subject matter. The ICO guidance on dealing with vexatious requests is clear in that the question to the public authority is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress. The ICO guidance sets out a number of indicators which have been considered. Disproportionate or unjustified level of disruption is not always in relation to the actual data requested, but the persistence and frequency / overlapping of the same or similar nature of requests received. Therefore any further requests about the same issue will be reviewed against Section 14 of the Act.

Exemption Explanation

Section 31(1)(a)(b)(c) – Law Enforcement

Section 31 is a qualified and prejudice-based exemption, meaning that I must evidence the harm in disclosure as well as consider the public interest.

Harm in Disclosure – Section 31

Disclosing details of investigations would reveal to other offenders intelligence as to the steps taken by police when dealing within investigations and the force's capabilities, which would allow them the opportunity to adapt any methods or take other measures to ensure they avoid detection, apprehension and prosecution.

Public Interest Test Sections 31

Factors favouring disclosure

Disclosure of the information would lead to a better informed public and allow them to satisfy themselves that investigations are conducted properly.

Factors favouring non-disclosure

Releasing information relating to cases would undermine the human rights of any individuals involved.

There are already in place established procedures for disclosing information, when to do so would aid an investigation.

Disclosure could undermine any other investigations and therefore prevent the apprehension and prosecution of the offenders. Revealing any 'intelligence' in relation to force tactics would compromised the force's capability and awareness around investigations, as offenders would be given the opportunity to evade police awareness of their activities.

Balancing Test

Whilst there is public interest in the disclosure of information, namely that the public would feel better informed as to the performance of North Yorkshire Police in conducting and completing these investigations, there is also substantial public interest in bringing any individuals to justice. However, revealing details of investigations may interfere with this. The Police Service relies heavily on the public providing information to assist in investigations and has a duty to protect and defend vulnerable individuals. The public has an expectation that any information they provide will be treated with confidence. Anything which places that confidence at risk, no matter how generic, would undermine any trust or confidence individuals have in the Police Service.

In addition, the effective delivery of operational law enforcement is of paramount importance to North Yorkshire Police in their duty to ensure the prevention and detection of crime is carried out and the effective apprehension or prosecution of offenders is maintained.

It is therefore our opinion that the balance lies in favour of non-disclosure of the information.

Section 40 (2) Personal Information

Where an individual can be identified by such data, releasing it would clearly breach the first data protection principle of being 'fair' to the data subject.

The information you are requesting would be the personal data of third parties and it would not be fair or lawful in accordance with the Data Protection Act (DPA) to release information of this type in response to a Freedom of Information request. This would be a disclosure to the world, of private information relating to third parties and would breach the principles of the DPA. This exemption is absolute and I am not required to evidence the harm or consider the public interest when applying this exemption.

S42 - Legal Professional Privilege

Section 42 of the Freedom of Information Act 2000 (the Act), as the information is subject to legal professional privilege.

Section 42 is a qualified class-based exemption, which means that consideration must be given to the public interest in disclosure or non-disclosure of the information, but there is no requirement to demonstrate any harm that may occur in the event of the information being disclosed.

Public Interest Considerations – Section 42

Factors favouring Disclosure

This is a situation concerning the expenditure of public funds in respect of a civil claim, and so there is a clear public interest in ensuring that any such action is lawful.

Factors favouring non-Disclosure

The principle of legal professional privilege is enshrined in history and must be respected.

The information concerned is the legal advice of the Force Solicitor to the Chief Constable and Commissioner and is inextricably linked to on-going Civil Litigation. To disclose such advice would waive legal professional privilege and risk undermining the relationship between Solicitor and client.

Legal Professional Privilege is applied to communications between a lawyer, acting in their capacity as a lawyer, and a client, and is privileged if they are both:

- Confidential, and
- For the purpose of seeking legal advice from a solicitor or providing it to a client

The protection applies only to those communications which directly seek or provide advice or which are given in a legal context, that involve the lawyer using his legal skills and which are directly related to the performance of the lawyer's professional duties. This applies to the documentation in this case.

Disclosure may risk an adverse impact on future advice given by the Force Solicitor to the Chief Constable and Commissioner.

There are existing mechanisms in place for scrutinising and holding the Chief Constable and Police and Crime Commissioner to account for their actions.

Balancing Test

The principle of legal professional privilege is fundamental and although there is a public interest in ensuring the basis of any action by a public authority is lawful, in this case the factors favouring non-disclosure outweigh those favouring disclosure.

Please note that systems used for recording information are not generic, nor are the procedures used locally in capturing the data. It should be noted therefore that this force's response to your questions should not be used for comparison purposes with any other responses you may receive.

Complaint Rights

Your attention is drawn to the attached sheet which details your right of complaint.

If you have any queries concerning this request, please contact me quoting the reference number above.

Yours sincerely

Caroline Williams
Legal Officer (Civil Disclosure)
Joint Corporate Legal Services

COMPLAINT RIGHTS

Are you unhappy with how your request has been handled or do you think the decision is incorrect?

You have the right to require the North Yorkshire Police to review their decision.

Prior to lodging a formal complaint you are welcome and encouraged to discuss the decision with the case officer that dealt with your request.

Ask to have the decision looked at again –

The quickest and easiest way to have the decision looked at again is to telephone the case officer that is nominated at the end of your decision letter.

That person will be able to discuss the decision, explain any issues and assist with any problems.

Complaint

If you are dissatisfied with the handling procedures or the decision of the North Yorkshire Police made under the Freedom of Information Act 2000 (the Act) regarding access to information you can lodge a complaint with the North Yorkshire Police to have the decision reviewed. North Yorkshire Police must be notified of your intention to complain within 2 months of the date of its response to your Freedom of Information request. Complaints should be made in writing and addressed to:

Force Solicitor and Head of Legal Services
North Yorkshire Police
Newby Wiske Hall
Northallerton
North Yorkshire
DL7 9HA

In all possible circumstances the North Yorkshire Police will aim to respond to your complaint as soon as practicable but within 20 working days.

The Information Commissioner

After lodging a complaint with the North Yorkshire Police if 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 www.informationcommissioner.gov.uk. Alternatively, phone or write to:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF
Phone: 01625 545 700