



Freedom of Information request 259-19

Please can you tell me if you have submitted any samples to (1) GEDmatch and (2) Family Tree DNA, either independently or through a US genetic genealogy service such as Parabon or through the genealogists who worked on the Golden State Killer case.

RESPONSE

Section 1 of the Freedom of Information Act 2000 (FOIA) places two duties on public authorities. Unless exemptions apply, the first duty at s1(1)(a) is to confirm or deny whether the information specified in a request is held. The second duty at s1(1)(b) is to disclose information that has been confirmed as being held. Where exemptions are relied upon Section 17 of the FOIA requires that we provide the applicant with a notice which: a) states that face; b) specifies the exemptions in questions and c) state (if that would not otherwise be apparent) why the exemption(s) apply.

British Transport Police neither confirms nor denies that it holds information relevant to this request by virtue of the following exemptions:

Section 30(3) Investigations Section 31(3) Law Enforcement

Section 30 is a class based qualified exemption and consideration of the public interest must be given as to whether neither confirming nor denying information exists is the appropriate response.

Section 31 is prejudice based and qualified which means that there is a requirement to articulate the harm in confirming or not whether information is held as well as carrying out a public interest test.

Evidence of Harm in complying with Section 1(1)(a) – to confirm or not whether information is or isn't held

The public expect police forces to use all powers and tactics available to prevent and detect crime or disorder and maintain public safety. Details of contracts awarded to forensics companies for them to provide a service to police forces is published on the Bluelight Procurement Database, see below link:

<https://www.blpd.gov.uk/foi/foicontractview.aspx?contractid=35505>

In this case, the applicant is trying to determine whether any samples have been submitted by British Transport Police to individual US genealogy companies which undoubtedly is sensitive information which may only be known by the Senior Investigating Officer and their team. Confirmation or denial would highlight whether or

not British Transport Police is using these companies as part of their tactical investigative process in a bid to identify offenders and bring them to justice.

Irrespective of what information may or may not be held, to confirm information is held by citing a substantive exemption or, conversely, stating 'no information held', would undermine the effective delivery of operational law enforcement by compromising potentially ongoing investigations, some of which may be covert, as well as undermining an evidential tactic and the strength that evidence may have if used in a court of law for the prosecution.

The Forensic Science Regulator ensures that the provision of forensic science services across the criminal justice system is subject to an appropriate regime of scientific quality standards.

Biometric forensics is at the forefront of many investigations which remained unsolved for a considerable amount of time. With the advancement in biometrics and DNA testing, individuals have now been brought to justice, examples being:

The murder of Nicola Fellows and Karen Hadaway resulted in the conviction of Russell Bishop, see below link:

<https://www.bbc.co.uk/news/uk-england-sussex-45877485>

The murder of Georgina Edmonds which resulted in the conviction of Matthew Hamlen, see below link:

<https://www.bbc.co.uk/news/uk-england-hampshire-35649282>

Public Interest Considerations

Section 30(3) Investigations

Factors favouring complying with Section 1(1)(a) confirming that information is held

Confirming or denying that information exists relevant to this request would lead to a better informed general public improving their knowledge and understanding as to how the Police Service deal with forensic samples.

The public are entitled to know how public funds are spent, particularly when money from the 'public purse' is used as part of forensic analysis.

Factors against complying with Section 1(1)(a)

Modern-day policing is intelligence led and British Transport Police where appropriate share information with outside companies as part of their investigative process. To confirm or not whether forensic samples are submitted to named companies could hinder the prevention and detection of crime as well as undermine the partnership approach to investigations and law enforcement.

Should offenders take evasive action to avoid detection, police resources may well be diverted from frontline duties and other areas of policing in order to locate and apprehend these individuals. In addition, the safety of individuals and victims would be compromised.

Section 31(3) Law Enforcement

Factors favouring complying with Section 1(1)(a)

There is media speculation and rumour surrounding the subject of UK police forces using the Ancestry website, see below link, and this fact alone favours disclosure.

<https://www.telegraph.co.uk/news/2019/02/02/police-turn-ancestry-website-help-crack-identity-fraud-cases/>

Factors against complying with Section 1(1)(a)

To Neither Confirm Nor Deny whether or not forensic samples have been submitted to named UK companies would suggest that British Transport Police take their responsibility to robustly investigate all crimes in order to reach a successful conclusion, seriously and appropriately to ensure the effective delivery of operational law enforcement.

Irrespective of what information is or isn't held, by applying substantive exemptions would indicate that information is held and that British Transport Police is proactively investigating unsolved cases. Such action would hinder the prevention and detection of crime.

Balancing Test

The points above highlight the merits of confirming or denying that information pertinent to this request exists. The Police Service proactively uses all tactics available to them, particularly when trying to reach a successful conclusion to investigations and solve crime. Any tactics are used in line with current regulators and following set policies and procedures.

The effective delivery of operational law enforcement takes priority and is at the forefront of British Transport Police to ensure the prevention and detection of crime is carried out and the effective apprehension or prosecution of offenders is maintained.

Therefore, at this moment in time, it is our opinion that for these issues the balance test for confirming or denying, that information is held is not made out.

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