

FOI Response
Information provided under the Freedom of Information Act

Title of Request: Review into Policing of XR Protests

FOI Reference: FOI/OPCC/20-023

Date of Request: 29/08/2020

Date of Response/Release: 28/09/2020

Information Requested:

In relation to the review of policing of “XR protests” earlier in 2020 mentioned in the response to FOI request, your reference FOI/OPCC/20-019 would you please release:

1. **Question:** The final report of that review, and its recommendations.

OPCC response: The OPCC can confirm that it holds the information in relation to your request, namely Cambridgeshire Constabulary’s (the “Constabulary”) Structure Debrief Report of the Extinction Rebellion Protest Activity in February 2020.

However, I am not obliged to supply the information you have requested. The OPCC is of the opinion that such information is exempt from release under the following exemption:

- **Section 31 (1)(a) of the Freedom of Information Act 2000 – Law Enforcement**

Section 31(1) of the Freedom of Information Act 2000 (the “Act”) provides that 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.

The Section 31 exemption is a prejudice based qualified exemption which requires the prejudice (harm) to be evidenced and a public interest test to be carried out. This means that information can only be withheld if its disclosure would, or would be likely to, prejudice one of the activities listed in subsection 31(1). This means that not only does the information have to prejudice one of the purposes listed, but before the information can be withheld, the public interest in preventing that prejudice must outweigh the public interest in disclosure.

The exemption provided by section 31(1)(a) covers all aspects of the prevention and detection of crime. As such this can apply to information on methods adopted by law enforcement agencies, and the consequences associated with that which would result from disclosing the requested information. The exemption can be used by a public authority that has no law enforcement function to protect the work of one that does.

Public interest test

This test is used to balance the public interest in disclosure against the public interest in favour of withholding the information. The OPCC must carry out a public interest test where it is considering using any of the qualified exemptions in response to a request for information. In carrying out a public interest test, it must consider the greater good or benefit to the community as a whole if the information is released or not. The 'right to know' must be balanced against the need to enable effective policing and to serve the best interests of the public.

Public Interest Test – Considerations in favour of disclosing the information

The Acting Police and Crime Commissioner (the "Acting PCC") recognises that there is a public interest in openness, transparency and accountability and, in respect of protests, an individual's right to protest and how the police respond to and conduct operations of this nature. Also acknowledged is the level of public and media interest that resulted from the protests that are the subject of the Structured Debrief Report. Thus, disclosure of information would enhance public confidence and perceptions in how the police are cognisant of the importance of the right to protest, and their legitimacy in being able to respond appropriately and proportionately.

Considerations in favour of withholding the information

The disclosure of the information would mean releasing sensitive information into the public domain. Whilst the Acting PCC has no law enforcement function, the section 31 Act exemption can be used by a public authority that has no law enforcement function to protect the work of one that does. In respect of this request for information, that law enforcement body is the Constabulary.

There is a very strong public interest in protecting the ability of public authorities to enforce the law. There is a clear public interest in public safety and as such protecting society, individuals, organisations and assets. It is also clear that it would not be in the public interest to compromise the Constabulary's future ability to police protests or impede their tactical options in order to balance the rights of protestors against the rights of those affected by their actions.

Balance Test

After consideration of the factors of the public interest test they are clearly weighed in favour of non-disclosure of the requested information. This decision is based on

the understanding that the Public Interest Test is not what interests the public, but is what would be best as a whole for law enforcement and society if disclosed.

Taking into account all of the above, the OPCC considers that the public interest is found in not disclosing the information under section 31(a) of the Act. The rationale for this is that the maintenance of effective plans and law enforcement to protect against the risks to people and property that can arise on such occasions outweighs the public interest in disclosing the information. These reasons outweigh the Acting PCC's requirement for transparency and accountability.

Therefore, the public interest is in maintaining the exemption provided for in section 31 of the Act and in not disclosing the information requested and held.

2. **Question:** Correspondence with Cambridgeshire Police relating to the review and the adoption of its recommendations

OPCC response: This information is given at Appendix 1.

3. **Question:** Correspondence with MPs for the police force directly relating to the review and its recommendations

OPCC response: This information is given at Appendix 2.

Cambridgeshire Constabulary is a separate organisation to the OPCC, and is treated as such under the Act. You can contact the Constabulary by email at foi@cambs.pnn.police.uk. Alternatively, please see the link to the Constabulary's Freedom of Information pages:

<https://www.cambs.police.uk/information-and-services/About-us/Freedom-of-information/Make-an-FOI-request>