



Freedom of Information request 840-20

Please can you tell me if the British Transport police has used drones (UAVs) during 2019-20, either operationally or in testing?

If drones have been used please confirm

- a) the dates of their use**
- b) The purpose for using them**
- c) The company which supplied them**

RESPONSE

Section 1 of the Freedom of Information Act 2000 (FOIA) places two duties on public authorities. Unless exemptions apply, the first duty at Section 1(1)(a) is to confirm or deny whether the information specified in a request is held. The second duty at Section 1(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 fact
- b) specifies the exemption(s) in question and
- c) states (if that would not otherwise be apparent) why the exemption applies.

In relation to the manufacturer of UAVs used by British Transport Police the following exemption applies:

Section 31(1) – Law Enforcement

Section 31(1) is a qualified and prejudice based exemption and therefore the legislators accept that there may be harm if released. The authority has to consider and describe the harm that would occur if the information were released and carry out a Public Interest Test.

Harm Test

As you will be aware, disclosure under FOIA is a release to the public at large. Whilst not questioning the motives of the applicant, release of information regarding the type/make of UAV's owned by British Transport Police, would show criminals what the capacity, tactical abilities and capabilities of the force are, allowing them to target specific areas of policing to conduct their criminal/terrorist activities. Release of the specific type/make of UAV's owned by British Transport Police, would compromise law enforcement. This would be to the detriment of providing an efficient policing service and a failure in providing a duty of care to all members of the public.

Release of information in relation to the type/make of UAV's owned by British Transport Police, would limit operational capabilities as criminals/terrorists would gain a greater understanding of the police forces' methods and techniques, enabling them to take steps to counter them. It may also suggest the limitations of police capabilities in this area, which may further encourage criminal/terrorist activity by exposing potential vulnerabilities. This detrimental effect is increased if the request is made to several different law enforcement bodies.

Any information identifying the focus of policing activity could be used to the advantage of terrorists or criminal organisations. Information that undermines the operational integrity of these activities will adversely affect public safety and have a negative impact on law enforcement.

Public Interest Test

Factors favouring the release of the information for Section 31

Release of information in relation to the type/make of UAV's owned by British Transport Police would provide an insight into the Police Service. This would enable the public to have a better understanding of the effectiveness of the police and about how the police gather intelligence. It would greatly assist in the quality and accuracy of public debate, which could otherwise be steeped in rumour and speculation. Where public funds are being spent, there is a public interest in accountability and justifying the use of public money.

Some information is already in the public domain regarding the police use of this type of specialist equipment and the release of information would ensure transparency and accountability and enable the public to see what tactics are deployed by the Police Service to detect crime.

Factors against the release of the information for Section 31

Release of information in relation to the type/make of UAV's owned by British Transport Police would have the effect of compromising law enforcement tactics and would also hinder any future investigations. In addition, release of type/make of UAV's used for an investigation would prejudice that investigation and any possible future proceedings.

It has been recorded that FOIA releases are monitored by criminals and terrorists and so to release information concerning type/make of UAV's used would lead to law enforcement being undermined.

To release information in relation to the type/make of UAV's owned by British Transport Police would hinder the prevention or detection of crime. British Transport Police would not wish to reveal the type/make of UAV's used to gain intelligence as this would clearly undermine the law enforcement and investigative process. This would impact on police resources and more crime and terrorist incidents would be committed, placing individuals at risk. It can be argued that there are significant risks associated with providing information, in relation to any aspect of investigations so the release of any information, may reveal the relative vulnerability of what we may be trying to protect.

Balance test

The Police Service will not divulge information if to do so would compromise law enforcement.

Whilst there is a public interest in the transparency of policing operations and providing assurance that the Police Service is appropriately and effectively engaging with the threat posed by various groups or individuals, there is a very strong public interest in safeguarding the integrity of police investigations and all areas of operations carried out by police forces throughout the UK.

As much as there is public interest in knowing that policing activity is appropriate and balanced this will only be overridden in exceptional circumstances. The type/make of UAV's owned by British Transport Police is a sensitive issue that would reveal police tactics and therefore it is our opinion that for these issues the balancing test for release of this information, is not made out.

Please find the remaining information, as per your request, relating to the overt use of UAV's below:

Question A

Please find below a list of the dates of use for overt operational deployments. Where dates are duplicated, this indicates more than one deployment on a date. This does not include training-only flights for the maintenance of currency requirements.

- 04/01/2019
- 11/01/2019
- 11/01/2019
- 15/01/2019
- 15/01/2019
- 18/01/2019
- 25/01/2019
- 27/01/2019
- 01/02/2019
- 03/02/2019
- 25/02/2019
- 30/03/2019
- 29/04/2019
- 15/05/2019
- 19/05/2019
- 20/05/2019
- 26/05/2019
- 26/05/2019
- 27/05/2019
- 28/05/2019
- 02/06/2019
- 05/06/2019

- 27/06/2019
- 28/06/2019
- 09/07/2019
- 06/09/2019
- 13/09/2019
- 15/09/2019
- 08/11/2019
- 27/03/2020
- 28/03/2020
- 29/03/2020
- 05/04/2020
- 08/04/2020
- 11/04/2020
- 14/04/2020
- 21/04/2020
- 23/04/2020
- 24/04/2020
- 24/04/2020
- 26/04/2020
- 15/06/2020
- 24/06/2020
- 29/06/2020
- 01/07/2020
- 11/07/2020
- 11/07/2020
- 20/07/2020

Question B

Operational deployments over this time period have been in response to the following categories of incident: graffiti, trespass, suicidal or vulnerable persons, aerial photography/overwatch, fire.

In addition, in regard to any information relating to the covert use of UAV's, British Transport Police neither confirms nor denies that it holds any other information relevant to the request by virtue of the following exemptions:

Section 23(5) - Information supplied by, or concerning, certain security bodies

Section 24(2) - National Security

Section 31(3) - Law Enforcement

Section 23 is an absolute class-based exemption and there is no requirement to conduct a harm or public interest test.

Sections 24, and 31 are prejudice based qualified exemptions and there is a requirement to articulate the harm that would be caused in confirming or denying that any other information is held as well as carrying out a public interest test.

Harm for the partial NCND

As you will be aware, disclosure under FOIA is a release to the public at large. Whilst not questioning the motives of the applicant, confirming or denying that any other information is held regarding the use of this specialist equipment for covert practise, would show criminals what the capacity, tactical abilities and capabilities of the force are, allowing them to target specific areas of the UK to conduct their criminal/terrorist activities. Confirming or denying the specific circumstances in which the police service may or may not deploy drones, would lead to an increase of harm to covert investigations and compromise law enforcement. This would be to the detriment of providing an efficient policing service and a failure in providing a duty of care to all members of the public.

The threat from terrorism cannot be ignored. It is generally recognised that the international security landscape is increasingly complex and unpredictable. Since 2006, the UK Government have published the threat level, based upon current intelligence and that threat has remained at the second highest level, 'severe', except for two short periods during August 2006, June and July 2007, and more recently in May 2017 following the Manchester Bombing, when it was raised to the highest threat, 'critical', it has since been reduced to 'substantial'. Nevertheless, the UK continues to face a sustained threat from violent extremists and terrorists and the current UK threat level is set at 'severe'.

It is well established that police forces use covert tactics and surveillance to gain intelligence in order to counteract criminal behaviour. It has been previously documented in the media that many terrorist incidents have been thwarted due to intelligence gained by these means.

Confirming or denying that any other information is held in relation to the covert use of drones, or unmanned aerial devices, would limit operational capabilities as criminals/terrorists would gain a greater understanding of the police forces' methods and techniques, enabling them to take steps to counter them. It may also suggest the limitations of police capabilities in this area, which may further encourage criminal/terrorist activity by exposing potential vulnerabilities. This detrimental effect is increased if the request is made to several different law enforcement bodies. In addition to the local criminal fraternity now being better informed, those intent on organised crime throughout the UK will be able to 'map' where the use of certain tactics are or are not deployed. This can be useful information to those committing crimes. It would have the likelihood of identifying location-specific operations which would ultimately compromise police tactics, operations and future prosecutions as criminals could counteract the measures used against them.

Any information identifying the focus of policing activity could be used to the advantage of terrorists or criminal organisations. Information that undermines the operational integrity of these activities will adversely affect public safety and have a negative impact on both national security and law enforcement.

Public Interest Test

Factors favouring Confirming or Denying for Section 24

The information, if held simply relates to national security and confirming or denying whether it is held would not actually harm it. The public are entitled to know what public funds are spent on and what security measures are in place, and by confirming or denying whether any other information regarding the covert use of drones is held, would lead to a better informed public.

Factors against Confirming or Denying for Section 24

By confirming or denying whether any other information is held would render Security measures less effective. This would lead to the compromise of ongoing or future operations to protect the security or infra-structure of the UK and increase the risk of harm to the public.

Factors favouring Confirming or Denying for Section 31

Confirming or denying whether any other information is held regarding the covert use of drones would provide an insight into the Police Service. This would enable the public to have a better understanding of the effectiveness of the police and about how the police gather intelligence. It would greatly assist in the quality and accuracy of public debate, which could otherwise be steeped in rumour and speculation. Where public funds are being spent, there is a public interest in accountability and justifying the use of public money.

Some information is already in the public domain regarding the police use of this type of specialist equipment and confirming or denying whether any other information is held would ensure transparency and accountability and enable the public to see what tactics are deployed by the Police Service to detect crime.

Factors against Confirming or Denying for Section 31

Confirming or denying that any other information is held regarding the covert use of drones would have the effect of compromising law enforcement tactics and would also hinder any future investigations. In addition, confirming or denying methods used to gather intelligence for an investigation would prejudice that investigation and any possible future proceedings.

It has been recorded that FOIA releases are monitored by criminals and terrorists and so to confirm or deny any other information is held concerning specialist covert tactics would lead to law enforcement being undermined. The Police Service is reliant upon all manner of techniques during operations and the public release of any modus operandi employed, if held, would prejudice the ability of the Police Service to conduct similar investigations.

By confirming or denying whether any other information is held in relation to the covert use of drones would hinder the prevention or detection of crime. The Police Service would not wish to reveal what tactics may or may not have been used to gain intelligence as this would clearly undermine the law enforcement and investigative process. This would impact on police resources and more crime and terrorist incidents would be committed, placing individuals at risk. It can be argued that there are significant risks

associated with providing information, if held, in relation to any aspect of investigations or of any nation's security arrangements so confirming or denying that any other information is held, may reveal the relative vulnerability of what we may be trying to protect.

Balance test

The security of the country is of paramount importance and the Police Service will not divulge whether any other information is or is not held regarding the covert use of drones if to do so would place the safety of an individual at risk, undermine National Security or compromise law enforcement.

Whilst there is a public interest in the transparency of policing operations and providing assurance that the Police Service is appropriately and effectively engaging with the threat posed by various groups or individuals, there is a very strong public interest in safeguarding the integrity of police investigations and all areas of operations carried out by police forces throughout the UK.

As much as there is public interest in knowing that policing activity is appropriate and balanced this will only be overridden in exceptional circumstances. The use of drones in any covert capacity is a sensitive issue that would reveal police tactics and therefore it is our opinion that for these issues the balancing test for confirming or denying whether any other information is held regarding the covert use of drones, is not made out.

However, this should not be taken as necessarily indicating that any information that would meet your request exists or does not exist.