WILTSHIRE POLICE

Force Disclosure Unit
Wiltshire Police HQ
London Road
Devizes
Wiltshire
SN10 2DN
Tel 101 ext 62005
www.wiltshire.police.uk
disclosure@wiltshire.pnn.police.uk

Date: 18th August 2021 Your ref: FOI Our ref: FOI 2021 / 631

Reply contact name is: Kerry Merritt

Dear ***,

I write in connection with your request for information dated 28th July 2021 concerning Digital Devices awaiting examination.

I am required by the Freedom of Information Act 2000 to handle all requests in a manner that is blind as to the identity and motives of the requestor. Any information released as a response to a request is regarded as being published and therefore in the public domain without caveat.

Your request for information has now been considered and it is not possible to meet your request in full.

You wrote:

1. Please provide the total number of digital media devices currently awaiting examination by, or on behalf of, the force.
2. Please provide a breakdown of the number in Question 1 by type of device:
Mobile phone
Laptop
Desktop computer
USB or portable media device
Smart watch
GPS device
Camera
Other
3. For each of the categories in Question 2, please provide a further breakdown showing:
a) How many devices of that type are due to be examined internally by the force
b) The longest wait time a device currently held has been awaiting examination by the force
c) How many devices of that type are due to be examined externally
d) A breakdown listing the external organisations that are due to examine the devices and how many awaiting examination by each organisation.
e) The longest wait time a device currently held has been awaiting external examination, and the external organisation that it is awaiting examination by.

Our response:

Question 1: Please provide the total number of digital media devices currently awaiting examination by, or on behalf of, the force.

441

In addition to this, the information in which you are requesting namely for questions **2, 3** and **3 a) – e)** is exempt by virtue of the following exemption:

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

Evidence of Harm

Modern day policing is intelligence led and law enforcement depends upon the development of intelligence and the gathering and security of evidence in order to disrupt criminal behaviour and bring offenders to justice. As criminals adapt and exploit new technology, the police need to respond by overcoming hi-tech barriers in order to meet their responsibilities. In this case the information relates to the extraction of data from digital media devices. Revealing the tactical level at which devices are examined at would identify operational complexity in the examination of some devices and would undermine the processes involved in preventing or detecting crime and the apprehension of prosecution of offenders.

It is widely known that the criminal fraternity analyse FOI requests to gain information on how and where they can adapt their methods to undertake illegal activity with the maximum chance of evading detection and apprehension. Although it is not considered harmful to provide very high level data on the overall number of devices awaiting examination, providing any further breakdown of this information presents potential to undermine outstanding current intelligence and investigations and offers up information to the public at large which could be used by criminals to evade capture, ultimately disrupting the forces ability to prevent and detect crime effectively.

Public Interest Considerations for S31(1)(a)(b) Law Enforcement

Factors favouring Disclosure

Disclosure of the information would be in keeping with the overall need for forces to be open and transparent about their capability to undertake thorough and timely investigations in order to bring offenders to justice. Disclosure would raise the general public's awareness that the police are effectively and appropriately investigating all lines of enquiry and where this is less evident, promote public debate to bring relevant forces to account.

Factors favouring Non-Disclosure

When the current or future law enforcement role of the force may be compromised by the release of information, the effectivity of the force will be reduced. In this case, for the reasons outlined in the evidenced harm, the effectiveness of current and future strategies when gathering evidence may be compromised.

The personal safety of individuals is of paramount importance to the Police Service and must be considered in response of every release. A disclosure under Freedom of Information is a release to the world and, in this case, if an investigation is compromised by disclosing tactical information relating to the extraction of data from digital devices, the impact of a case failing to reach court would no doubt have an impact on any victim's confidence in the forces ability.

Balancing Test

As always, the Freedom of Information Act has a presumption of disclosure, unless when balancing the competing public interest factors the prejudice to the community outweighs the benefits. In this case, there is an argument for disclosure, inasmuch as the public have a right to know that every effort is made to gather all relevant evidence, including extracting data from digital devices, but this must be balanced against the negative impact these disclosures can make.

Law Enforcement is reliant on community engagement, intelligence and evidence gathering and when it is appropriate, information is given to the public. What has been established in this case is the fact that disclosure of the levels used when extracting data would have an adverse effect on the investigative process and on the public prevention or detection of crime and the apprehension or prosecution of offenders. This places the victims of such offending at a greater risk and is not an action the Police Service would be willing to take. These negatives outweigh any tangible community benefit and therefore the balance does not favour disclosure at this time.

Section 17 of the Freedom of Information Act 2000 requires the Wiltshire Police, when refusing to provide such information (because the information is exempt) to provide you the applicant with a notice which: (a) states that fact, (b) specifies the exemption in question and (c) states (if that would not otherwise be apparent) why the exemption applies.

The exemption applicable to the information requested is:

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

In accordance with section 17 of the Act, this letter represents a Refusal Notice for this particular request.

I am satisfied that all the relevant information has been passed to me and been considered in the light of your request within the time constraints applicable under the legislation.

Wiltshire Police would like to thank you for the interest that you have shown in the Force.

Yours sincerely,

Kerry Merritt
Disclosure Decision Maker

Wiltshire Police offers a re-examination of your case under its review procedure.

Force Disclosure Unit
Wiltshire Police HQ, London Road, Devizes, Wiltshire SN10 2DN
Telephone 101 ext 62005

Freedom of Information Request Appeals Procedure

1. Who Can Ask for a Review

Any person who has requested information from Wiltshire Police, which has been dealt with under the Freedom of Information Act, is entitled to complain and request an internal review, if they are dissatisfied with the response they received.

2. How to Request a Review

Requests for review of a Freedom of Information request must be made in writing to the:
Force Disclosure Unit
Wiltshire Police Headquarters,
London Road, Devizes,
Wiltshire,
SN10 2DN

Email at disclosure@wiltshire.pnn.police.uk.

The reference number, date of the request and details of why the review is being requested must be included. Requests for review should be brought to the attention of the Force Disclosure Unit within 20 working days of the Force's response to the original FoI request.

3. Review Procedure

Receipt of a request for review will be acknowledged in writing to include confirmation of the reasons for the review. The review will be conducted by another Decision Maker, who is independent from the original Decision Maker. The Force Disclosure Unit will set a target date for a response. The response will be made as soon as is practicable with the intention to complete the review within twenty working days. In more complex cases the review may take up to 40 working days.

The Independent Decision Maker will conduct a review of the handling of the request for information and of decisions taken, including decisions taken about where the public interest lies in respect of exempt information where applicable. The review enables a re-evaluation of the case, taking into account the matters raised by the complaint.

4. Conclusion of the Appeal

On completion of the review the Independent Decision Maker will reply to the complainant with the result of the review. If the complainant is still dissatisfied following the review they should contact the Information Commissioner to make an appeal. The Information Commissioner can be contacted via the following details:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Tel: 01625 545 700
Fax: 01625 524 510
Email: mail@ico.gsi.gov.uk