

**Force Disclosure Unit**

Wiltshire Police HQ
London Road
Devizes
Wiltshire
SN10 2DN
Tel 101 ext. 62005

www.wiltshire.police.uk

disclosure@wiltshire.police.uk

Date: 06 April 2022

Your ref:

Our ref: FOI 2022/150

Reply contact name is: Lloyd Tilbury

Dear,

I write in connection with your request for information dated 11th February 2022 concerning digital forensics.

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 I am not obliged to supply the information you have requested.

You wrote:

- a) How many phones are currently being kept as evidence and are awaiting digital forensic examination by your force?
- b) Please provide a breakdown of how long the phones have been waiting for examination as follows:

Length time phone has waited for examination	Number of phones
Up to and including 3 months	
More than 3 months, up to and including 6 months	
More than 6 months, up to and including 12 months	
More than 12 months	
Total	

- c) What is the longest a phone has been waiting for examination?



INVESTOR IN PEOPLE

a) How many phones are currently being kept as evidence in **sexual offence cases** and are awaiting digital forensic examination by your force? Please skip question 2 if it will exceed the cost limit.

b) Please provide a breakdown of how long the phones (specified in 2a) have been waiting for examination as follows:

Length time phone has waited for examination	Number of phones
Up to and including 3 months	
More than 3 months, up to and including 6 months	
More than 6 months, up to and including 12 months	
More than 12 months	
Total	

c) What is the longest a phone (specified in 2a) has been waiting for examination?

Does your force have the capability to download material from phones and return them to victims of crimes (such as rape) within 24 hours? If so, please specify what resources you use to do this - e.g. digital forensic kiosks. If not, please explain why not and provide details of any plans you have to introduce this capability. Please skip this question if it will exceed the cost limit.

I see no way that disclosing this information would in any way disrupt an investigation.

While my request asks about digital devices - I do not need any information about the tactics you are employing. This is particularly clear to me in Q1 and Q2. I don't think it's right that the "Evidence of Harm" exemption should apply as a blanket ban relating to this subject matter.

It is clear to me there is significant public interest in the answers to this question.

Response:

On reviewing your original Freedom of Information request, the response provided to you and your request for an Internal Review, I uphold the exemptions used for Questions One (B and C), Two (B and C) and Three.

The information that you are requesting is exempt by virtue of the following exemption:

Section 31(1)(a)(b) – Law Enforcement

Section 31 is a prejudice based and qualified exemption, therefore the harm (prejudice) in disclosure should be evidenced and the public interest given.

Overall 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 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 and prosecution of offenders.

It is widely known that the criminal fraternity analyse Freedom of Information 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 force's ability to prevent and detect crime effectively.

Public Interest Considerations for Section 31(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 which can 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 effectiveness 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 regards to every release. A disclosure under the Freedom of Information Act 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 force's ability.

Balance 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, in as much 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 have.

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 Wiltshire Police, when refusing to provide 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. In accordance with the Freedom of Information Act 2000 this letter acts as a Refusal Notice for those aspects of your request.

Exemptions applied:

Section 31 – Law Enforcement

Please contact me if you would like to discuss the withheld information.

Yours sincerely,

Lloyd Tilbury
Principal Decision Maker

The 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.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

Please note that the ICO's offices will be closed for the foreseeable future and are therefore unable to receive correspondence via post.

If you should wish you contact them, please visit <https://ico.org.uk/global/contact-us/>