

31st October 2019

Freedom of Information Request – Reference No:20192185

REQUEST

I write to request information and records under the FOIA, regarding your force's mobile phone and digital device extraction technology and practices

- 1. What digital device extraction technology does your force currently use to collect digital information from complainants? Please provide the following:**
 - a. the name of the company and model of the software and/or hardware used for this purpose**
 - b. how long it has been in use for this purpose by your force.**
- 2. Does the digital device extraction technology that your force uses have the technical capability to set parameters for digital device extractions (e.g time frames)? If yes, please specify whether the extraction technology has the capability to set any of the following parameters in digital device extractions:**
 - a. time frame**
 - b. data relating to specific contacts**
 - c. data types (e.g texts, WhatsApp messages, photos)**
 - d. specified individual text messages**
 - e. specified individual in-app data (e.g. WhatsApp, Facebook, email)**
- 3. Does your force have plans to upgrade or procure new digital device extraction different technology? If so, please:**
 - a. describe such plans;**
 - b. describe the technical and other requirements of the new technology sought;**
 - c. detail any steps already taken, and those planned, towards planning, budgeting, researching and procuring the new technologies;**
 - d. if applicable, provide the name of the company and models of the software and/or hardware that is intended to be procured.**

CLARIFICATION

Please could you clarify the following point(s): -

In respect of Q3 -

You are asking for information to be 'created' in order to answer this question. As you are no doubt aware there is no requirement to 'create' information in order to answer a request. Section 8 of the Freedom of Information Act applies to all recorded information a public authority may hold, and does not apply to 'explanation' or 'general comment', which forms the basis of this question.

Can you confirm if there is specific recorded data you require?

FROM THE REQUESTER

The question asks if your force intends to upgrade or procure new digital device extraction technology. We are not asking for new information to be created, merely whether your force is upgrading or procuring new digital device extraction technology, and records in relation to that upgrade or procurement.

RESPONSE

Q2 - The answer to question 2(a)(b) and (d) is that the Police Service does not have technical capability to set parameters for digital device extractions for specific time frames, data relating to specific contacts and specified individual text messages. With regard to questions 2(c) and (e), we can confirm that such extraction technology can be used in some circumstances for specific data types, e.g. calls, contacts and text messages, for example, specific individual in-add data.

In respect of any further information, Section 17 of the Freedom of Information Act 2000 requires South Yorkshire 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 exemptions applicable to your request falls under the following exemptions:

**Section 31 (1) (a) – Law Enforcement
Section 43 (2) – Commercial Interests**

Harm

When a disclosure is made under the Freedom of Information Act, it is a disclosure to the world via a forces publication scheme and not to a single individual. In view of this, we may publish all information released under the Freedom of Information Act on our website in order that any member of the public who may wish to view the information can have access to it.

Therefore to release details of ranges of technology used currently or in the future by South Yorkshire Police would potentially expose law enforcement tactics, capability, capacity and operating procedures.

In addition we would not release any information that would be deemed commercially sensitive. Such disclosure would undermine the confidence the supplier would have in South Yorkshire Police to conduct any future business in respects of any future phases of business projects.

Public Interest Test

Section 31 -Law Enforcement

Considerations favouring disclosure:

- Disclosure would demonstrate SYPs commitment to transparency and openness
- A full release of information would show that SYP is proactive in its operational policing and capabilities.
- Disclosure would provide better awareness, which may reduce crime or lead to more information from the public.

Considerations favouring non-disclosure:

- To disclose the specific intricacies of the technology would potentially reveal the current or future operational capability, tactical options and operational activity.
- An impact on police resources, which would hinder the prevention or detection of crime and place individuals at risk.

Section 43- Commercial Interests

Considerations favouring disclosure

- Increased awareness of how South Yorkshire Police use public funds when entering into the procurement process and contracts with third parties.
- Public understanding of SYP's technology and how we use it.

Considerations against disclosure

- The release of commercially sensitive information would undermine the confidence suppliers have in the way South Yorkshire Police does business and the procurement process, this would impact on providers and the forensic market place.
- Giving this information out may undermine commercial interests of the tenderer.

Balancing Test

I have considered your request for information. The key test when considering the public interest is to establish whether in all the circumstances of the request, the public interest in disclosing the information isn't outweighed by that in maintaining the exemption.

There is always a call for openness and transparency with regard to law enforcement and commercial issues however this needs to be balanced against any harm in disclosure. Disclosure of this information may well assist in minimising collateral intrusion and privacy issues, however, there is always a duty of care to the general public and the Police Service has a clear responsibility to ensure the prevention or detection of crime, and the apprehension or prosecution of offenders is always delivered.

There are a number of tactics available to the Police Service to ensure the effective delivery of operational law enforcement. In this case, such policing activity is required to undertake fair investigations where it may be necessary to progress a range of reasonable lines of enquiry. An example of this maybe where accounts are provided to the police by victims, suspects and witnesses but the nature of requirements, forensic strategy and data extraction may well be required for further evidential purposes. To disclose the specific intricacies of any technology would reveal operational capability, tactical options and operational activity.

Release of forces intentions commercially would also likely be, prejudicial to the commercial activities of the company subject to the procurement process.

It is therefore my opinion that releasing this information would engaged the above exemptions.