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Our Ref: IM-FOI-2021-2825
Date: 26th January 2022



FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

I refer to your recent request for information which has been handled in accordance with the Freedom of Information (Scotland) Act 2002.

For ease of reference, your request is replicated below together with the response.

A full list of the titles of the files relating to the the Zircon affair investigation and the raid of BBC Scotland conducted on 24 February 1987.

Please note I'm not asking for copies of files themselves - only the titles.

Please accept my apologies for the delay in getting back to you.

Please find attached the requested information.

I must advise that it has been necessary to withhold some of the information requested, therefore, in terms of Section 16 of the Freedom of Information (Scotland) Act 2002, I am refusing to provide you with the information sought.

Section 16 requires Police Scotland when refusing to provide such information because it is exempt, to provide you with a notice which:

- (a) states that it holds the information,
- (b) states that it is claiming an exemption,
- (c) specifies the exemption in question and
- (d) states, if that would not be otherwise apparent, why the exemption applies.

I can confirm that Police Scotland holds the information you have requested and the exemption that I consider to be applicable is set out at:

Section 31(1) – National Security and Defence

Section 35(1)(a)&(b) – Law Enforcement

Section 38(1)(b) – Personal Information

Section 31(1) – National Security and Defence

If the information is disclosed it may provide an insight into the internal processes associated with operations that relate to National Security and Defence.

The security of the United Kingdom is of paramount importance and Police Scotland will not disclose further details of such information if it would impact on National Security.

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This is a non-absolute exemption and requires the application of the public interest test.

35(1)(a)&(b) – Law Enforcement

The requested information, if disclosed, could be used to try and work out how investigations into matters such as those involved in the Zircon Affair are dealt with and progressed along with the resources available to Police Scotland in dealing with them. Those with criminal intent would then be in a position to more accurately estimate the resources allocated to such tasks. Disclosure could have a negative effect on national security should the release of information be used and manipulated by criminal fraternities.

This is a non-absolute exemption and requires the application of the public interest test.

Public Interest Test

As you will be aware, the exemptions listed above are non-absolute and require the application of the Public Interest Test. I would suggest that public accountability would favour disclosure, given that the information concerns an operation of public interest. Likewise, disclosure of the information would also inform the public debate on the issue of policing and contribute to the accuracy of that debate.

Furthermore, the applicability of the exemptions listed above, the need to ensure the effective conduct of the service in relation to prevention and detection of crime and, the public safety considerations involved in the delivery of operational policing clearly favour non-disclosure of the information requested.

It is important to note that the UK does face a serious and sustained threat from violent extremists and this threat is greater in scale and ambition than any terrorist threats in the past. The police service has a duty to promote the safety of all individuals, whether protected or not, and will not reveal any information that might jeopardise this goal. To provide details of resources allocated to protecting them is likely to place individuals at serious and increased risk.

On balance I would contend that the public interest in disclosing the information is outweighed by that in maintaining the exemptions listed, as, it is doubtful if it can ever be in the public interest to disclose information which would jeopardise the delivery of policing and the safety of individuals and prejudice the prevention or detection of crime.

Section 38(1)(b) – Personal Information

Any information that could lead to the identification of individuals has been redacted. This is in accordance with Section 38(1)(b) of the Freedom of Information (Scotland) Act 2002 – Personal Information.

This mainly relates to the name of persons who are outside Police Scotland and any staff member within Police Scotland of a more junior role (below the rank of Superintendent or Head of Department). Those of a more senior rank have been included as it is deemed within the public interest to do so. Where it has not been possible to confirm whether an individual with a rank of Superintendent or higher was a staff member of Police Scotland at the time, their details have also been redacted.

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As such, the processing would be unfair and unlawful in respect of the individuals concerned and would therefore be in breach of the first principle of the Data Protection Act 2018. This is an absolute exemption, which does not require a public interest test to be conducted.

Finally, a number of the documents do not have a title and have been noted as such. In regards to the title of these documents I must advise that in terms of Section 17 of the Freedom of Information (Scotland) Act 2002, this represents a notice that the information requested is not held by Police Scotland.

Should you require any further assistance please contact Information Management quoting the reference number given.

If you are dissatisfied with the way in which Police Scotland has dealt with your request, you are entitled, in the first instance, to request a review of our actions and decisions.

Your request must specify the matter which gives rise to your dissatisfaction and it must be submitted within 40 working days of receiving this response - either by email to foi@scotland.pnn.police.uk or by post to Information Management (Disclosure), Police Scotland, Clyde Gateway, 2 French Street, Dalmarnock, G40 4EH.

If you remain dissatisfied following the outcome of that review, you are thereafter entitled to apply to the Office of the Scottish Information Commissioner within six months for a decision. You can apply [online](#), by email to enquiries@itspublicknowledge.info or by post to Office of the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS.

Should you wish to appeal against the Office of the Scottish Information Commissioner's decision, there is an appeal to the Court of Session on a point of law only.

As part of our commitment to demonstrate openness and transparency in respect of the information we hold, an anonymised version of this response will be posted to the Police Scotland Freedom of Information [Disclosure Log](#) in seven days' time.