



Gloucestershire Constabulary Freedom of Information request 2023.0603

On 06/06/2023 you sent an email constituting a request under the Freedom of Information Act asking the following:

1. In the last 6 years, the number of occasions on which an individual suspected of, or charged with an offence but not yet convicted, or who is being investigated by your Force, has been invited, requested or required by your Force to take a polygraph test.
2. In respect of the above, the number of occasions in the last 6 years that an individual suspected of an offence, charged with an offence but not yet convicted or who is being investigated by your Force has in fact taken a polygraph test.
3. The number of occasions in the last 6 years that an individual suspected of an offence, charged with an offence but not yet convicted or who is being investigated by your Force has been invited, requested or required by the force to take a polygraph test for the purposes of assessing the risk those individuals are posing to children.
4. The Force's policy document(s), operational guidance and/or similar document(s) relating to the use of polygraph tests in relation to individuals suspected of an offence, charged with an offence but not yet convicted or under investigation by the Force.
5. The number of occasions in the last 6 years that an individual has been requested or required to take a polygraph test as part of a bail condition or in connection with a community sentence/order.
6. The Force's policy document(s), operational guidance and/or similar document(s) relating to the use of polygraph tests in relation to bail conditions and/or community sentences/orders.
7. The number of occasions in the last 6 years that polygraph testing has been requested or required for any individuals/circumstances other than for the management of sexual offenders, terrorism offenders, domestic abuse offenders and those subject to TPIMs.
8. A copy of the explanation (written or oral) of the polygraph test, pre-test and post-test interview as received by the examinee (please note that sensitive information relating to particular questions are not requested, rather the template explanation provided).
9. A copy of the explanation (written or oral) of the polygraph test, pre-test and post-test interview as received by the examinee's legal representative (please note that sensitive information relating to particular questions are not requested, rather the template explanation provided).

10. The cost to the Force since 1 Jan 2021 of the purchase and maintenance of Lafayette polygraph testing equipment (and/or other commercial devices deployed) including the ongoing cost of software licences.

11. A copy of the procurement contract(s) for the purchase of the above-mentioned equipment/software.

12. A copy of the instruction manual relating to the Lafayette polygraph testing equipment, including the integrated software (and/or other commercial devices deployed) as used by polygraph examiners.

Under the Freedom of Information Act 2000 s1, I can confirm that Gloucestershire Constabulary holds some relevant information.

I can confirm that Gloucestershire Constabulary does not conduct any overt Polygraph testing.

The Constabulary can neither confirm nor deny if that any other information is held relevant to Polygraph testing.

Gloucestershire Constabulary can neither confirm nor deny whether it holds any other information that you requested as the duty in Section 1(1)(a) of the Freedom of Information Act 2000 (the Act) does not apply by virtue of the following exemptions:

Section 23(5) - Information supplied by, or relating to, bodies dealing with security matters

Section 24(2) – National Security

Section 30(3) – Criminal Investigations

Section 31(3) – Law Enforcement

HARM

The FOI Act is 'applicant blind'. This means that we cannot, and do not, ask about the motives of anyone who asks for information. In providing a response to one person, we are expressing a willingness to provide the same response to anyone, including those who might represent a threat to the UK.

It is public knowledge that not all Police forces conduct Polygraph Testing of post-conviction sex offenders, and this extends to the testing of Domestic Abuse (DA) offenders. It is also public knowledge that the 2014 National Policing stance sets out the evidential implications of using Polygraph within the investigation setting:

<https://library.college.police.uk/docs/APPREF/National-Policing-Position-Statement-use-of-Polygraph-May-2014.pdf>

However, modern day policing is intelligence led and this is particularly pertinent with regard to law enforcement, and Counter Terrorism. The public expect police forces to use all powers and tactics available to them to prevent and detect crime or disorder and maintain public safety. As such, confirmation or denial is only possible when doing so would not reveal certain tactics and techniques, the extent to which they may be deployed, and whether information is held that has a bearing on matters of National Security.

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 has published the threat level based upon current intelligence, and

that threat is currently judged as “SUBSTANTIAL”, meaning that an attack on the UK is likely.

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

To confirm or deny that any other information is held in relation to Polygraph testing in circumstances or scenarios beyond sex offender, or DA offender management at force level, would reveal whether the technique has utility beyond post-conviction sex offender, or DA offender testing within the wider Law Enforcement sphere. Notably, to confirm or deny whether any other information is held relevant to Polygraph testing in a Counter Terrorism setting, whether that is a post-conviction terrorist offender, or someone suspected of being so connected with such activities, would reveal whether such techniques are in use as an investigative, and more so, intelligence gathering tactic.

Confirmation or denial across the Police Service would infer that there are gaps within the intelligence picture nationally which, for certain criminal elements and extremists, may embolden them to focus efforts within areas that they deem to be “soft” targets. Any incident that results from such a disclosure would by default affect National Security.

Public Interest Test

Some of the exemptions in the FOI Act, referred to as ‘qualified exemptions’, are subject to a public interest test (PIT). This test is used to balance the public interest in disclosure against the public interest in favour of withholding the information, or the considerations for and against the requirement to say whether the information requested is held or not. We must carry out a PIT where we are considering using any of the qualified exemptions in response to a request for information.

The ‘public interest’ is not the same as what interests the public. In carrying out a PIT we consider the greater good or benefit to the community as a whole if the information is released or not. The ‘right to know’ must be balanced against the need to enable effective law enforcement and to serve the best interests of the public.

S24(2) - Considerations in favour of confirming or denying the information is held

The public are entitled to know how public funds are spent and confirm or deny the requested information is held would allow the public to see where money is being spent and know that forces are doing as much as possible to combat terrorism.

S24(2) - Considerations in favour of neither confirming or denying the information is held

To confirm or deny information is held would render security measures less effective. Any information shared between law enforcement partners (i.e. intelligence) has the potential to cover all aspects of criminal activity, be it threats to life, or intelligence relating to terrorist activity. Confirmation or denial could highlight to those intent on criminality, whether or not information has been shared. Confirming such would dramatically weaken the effectiveness of intelligence led policing. The public entrust the Police Service to make appropriate decisions with regard to their safety and protection and the only way of reducing risk is to be cautious with any information, no matter how generic that is.

S30(3) - Considerations in favour of confirming or denying the information is held

There is a public interest in the transparency of policing operations and providing assurance that Gloucestershire Constabulary is appropriately and effectively dealing with Counter Terrorism. Confirming or denying whether any other information is held would allow the public to make informed decisions about these matters.

S30(3) - Considerations in favour of neither confirming or denying the information is held

Whilst there is a public interest in the transparency of policing operations and providing assurance that Gloucestershire Constabulary is appropriately and effectively dealing with the threat of Terrorism, there is a strong public interest in safeguarding the integrity of police investigations and operations and in maintaining confidence in the Police Service. Any ongoing or future investigations, or operations to protect the security and infrastructure of the UK would be compromised as terrorists could map the level of Counter-Terrorist activity and intelligence sharing across the country, providing them with the knowledge of individual force capability as well as valuable knowledge concerning the vulnerability of individual force areas.

S31(3) - Considerations in favour of confirming or denying the information is held

Gloucestershire Constabulary has a responsibility to conduct its business in an open and transparent manner. Confirmation or denial of all circumstances related to the use of Polygraph testing would assure the public that the police is committed to combating crime and terrorism. It would also ensure the public that the activities of certain individuals are being monitored by law enforcement so that individuals are aware of the investigative techniques used in order to protect the public, thus leading to better public awareness.

S31(3) - Considerations in favour of neither confirming or denying the information is held

Disclosure of the information, if held, would mean releasing sensitive information into the public domain, which could compromise law enforcement tactics, which could in turn hinder the prevention and detection of crime. To disclose whether information is held in relation to Polygraph Testing, whether by the force itself, or through the provision of information from other Law Enforcement partners in relation to Counter Terrorism would:

- a) allow criminals and extremists to evade prosecution or detection if they believe such practices are not in use for the purpose of seeking intelligence, or;
- b) cause criminals and extremists to alter their behaviour if they become aware of the tactics and techniques the police might employ, and to what extent.

Therefore confirming or denying whether any other information is held could compromise the prevention and detection of crime, which includes Terrorism.

Balancing Test

As evidenced within the harm above, confirming or denying any other information is held relevant to this request would start to indicate levels of specific policing activity at force

level, and more broadly from a national perspective in relation to Counter Terrorism matters.

The Police Service will not divulge information if to do so would place the safety of an individual at risk or undermine Law Enforcement. Whilst there is a public interest in the transparency of policing operations, and in this case providing assurance Gloucestershire Constabulary is appropriately and effectively engaging with the threat posed by criminal and terrorist activity (either at force level or through the provision of assistance to, or from partners) there is a very strong public interest in safeguarding law enforcement, which by extension includes National Security.

As much as there is public interest in knowing that policing activity is appropriate and balanced about such matters, this will only ever be overridden in exceptional circumstances. Matters in relation to crime and terrorism are sensitive issues of intelligence value to those who would do harm, and therefore it is our opinion that for these issues the balancing test for confirming or denying whether any other information is held in relation to Polygraph tests and Counter Terrorism would not be in the public interest.

If you are not satisfied with this response or any actions taken in dealing with your request, you have the right to ask that we review your case under our internal procedure. Please note that a request for an internal review must be made within 20 working days of the response to your original request.

If you decide to request that such a review is undertaken and following this process you are still unsatisfied, you then have the right to direct your complaint to the Information Commissioner for consideration.