



Your reference: n/a
Our reference: FOI_24_0503
E-mail: FOI
@gloucestershire.police.uk
Direct dial: 01452 754304
Postal Address: As above
Date: 02/07/2024

Dear

Gloucestershire Constabulary Freedom of Information request FOI_24_0503

On 08/05/2024 you sent an email constituting a request under the Freedom of Information Act asking the following:

I would like to make the follow request under the Freedom of Information Act 2000.

Please disclose financial information concerning all payments by your force to the Berla Corporation (berla.co - digital vehicle forensics) for the last five financial years. Specifically I would like to ask for date and amount of payment and what service or product was purchased.

Section 1 of the Freedom of Information Act 2000 (FOIA) places two duties on public authorities. Unless exemptions apply, the first duty at Section 1(1)(a) is to confirm or deny whether the information specified in a request is held. The second duty at Section 1(1)(b) is to disclose information that has been confirmed as being held. Where exemptions are relied upon s17 of FOIA requires that we provide the applicant with a notice which: a) states that fact b) specifies the exemption(s) in question and c) states (if that would not otherwise be apparent) why the exemption applies.

Gloucestershire Constabulary can neither confirm nor deny that it holds any information in relation to Berla.co as the duty in Section 1(1)(a) of the Freedom of Information Act 2000 does not apply, by virtue of the following exemptions:

Section 31(3) Law enforcement;

Section 31 is prejudice based qualified exemptions and there is a requirement to articulate the harm that would be caused in confirming or not that the information is held as well as carrying out a public interest test.

Harm

Vehicle Digital Forensics is a rapidly evolving field of digital forensics that involves the acquisition, preservation, and analysis of digital evidence capable of being recovered from a motor vehicle. In recent years, criminal investigations have become more sophisticated, relying more heavily on the data extracted from vehicles. Berla.co is one of a number of commercial businesses that creates solutions for the purpose of Vehicle Digital Forensics.

Disclosure under the Freedom of Information Act (FOIA) is a release to the public at large. Whilst not questioning the motives of the applicant, confirming or denying that business has been conducted with Berla.co would limit operational capabilities as criminals would gain a greater understanding about the tactical abilities available to the force in this area, enabling them to take steps to counter them. It may also suggest the limitations of police capabilities in this area, which may further encourage criminal activity by exposing potential vulnerabilities. This detrimental effect is increased if the request is made to several different law enforcement bodies. Those intent on organised crime throughout the UK will be able to 'map' where the use of tactical capabilities are or are not deployed. Likewise, when considered on a force by force basis, a malign individual could identify solutions most critical to the Law-and-Order sector and specifically target those providing the most assistance. This would have a huge impact on the effective delivery of operational law enforcement as it would leave companies open to disruption, such as through cyberattacks, which could have devastating consequences for law enforcement.

Public Interest Test

Factors favouring Confirming or Denying for Section 31 - Confirming or denying whether business is conducted with Berla.co would provide an insight into the Police Service. It is well known that the police use hi-tech specialist equipment and confirming or denying whether any information is held would ensure transparency and accountability, and enable the public to see what tactics are deployed by the Police Service to detect crime. Where public funds are being spent, there is a public interest in accountability and justifying the use of public money.

Factors against Confirming or Denying for Section 31 - Confirming or denying that any information is held regarding business with Berla.co would have the effect of compromising law enforcement tactics and would also hinder any future investigations.

In general terms it is acknowledged in the public domain that Vehicle Digital Forensics is a capability used to extract and analyse digital evidence for use in investigations. However, the Police Service is reliant upon all manner of techniques during operations and the public release of any modus operandi employed, provided by whatever means (in this case by Berla.co), if held, would prejudice the ability of the Police Service to conduct these types of investigations. In addition, it has been recorded that FOIA releases are monitored by criminals and so to confirm or deny information is held concerning which Vehicle Digital Forensics solutions are used would lead to law enforcement being undermined.

By confirming or denying that a business interest exists with Berla.co would hinder the prevention or detection of crime. The Police Service would not wish to reveal what solutions, or tactics may or may be facilitated force-by-force through the use of specific products as this would clearly undermine the law enforcement and investigative process across the Service. This would impact on police resources and more crime would be committed, placing individuals at risk. It can be argued that there are significant risks associated with providing information, if held, in relation to any aspect of conducting investigations so confirming or denying that information is held, may reveal the relative vulnerability of what we may be trying to protect.

Balance Test

Gloucestershire Constabulary will not divulge whether any information is or is not held regarding business with any named company, such as Berla.co, if to do so it would compromise law enforcement.

Whilst there is a public interest in the transparency of policing operations and providing assurance that Gloucestershire Constabulary is appropriately and effectively engaging with investigative solutions in balance to the technological advancement of vehicles, there is a very strong public interest in safeguarding the integrity of police capabilities in this area of investigations carried out by police forces throughout the UK.

As much as there is public interest in knowing that policing activity is appropriate and balanced this will only be overridden in exceptional circumstances. The use of technology can be a sensitive issue that would reveal police tactics and therefore it is our opinion that for these issues the balancing test for confirming or denying whether any information is held regarding the police and Berla.co is not made out.

However, this should not be taken as necessarily indicating that any information that would meet your request exists or does not exist.

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.

The Information Commissioner can be contacted via the following means:

Website - <https://ico.org.uk/>

Call their helpline - 0303 123 1113

Email - casework@ico.org.uk

Post –

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Yours sincerely,

Disclosure Officer
Gloucestershire Constabulary