

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 14 December 2021

**Public Authority:** Commissioner of the Metropolis  
**Address:** New Scotland Yard  
Broadway  
London  
SW1H 0BG

### Decision (including any steps ordered)

---

1. The complainant has requested information about murders and attempted murders from the Metropolitan Police Service (the "MPS"). The MPS provided some information but withheld the remainder, citing sections 40(2) (Personal information) and 30(1)(a) (Investigations and proceedings).
2. The Commissioner's decision is that section 30(1) is engaged and that the public interest favours maintaining the exemption. No steps are required.

### Request and response

---

3. On 17 November 2020, the complainant wrote to the MPS and requested information in the following terms:

*"Could you please supply me with details of ALL Attempted Murders and Murders within the MPD for the 2019/20 Financial Year (or the most recent 12 months if that is easier)*

*For each offence please include Borough, Gender, Age and Ethnic Appearance of both Victim and Suspect.*

*If it is possible could this info please be provided as an EXCEL workbook or equivalent?"*

4. On 27 January 2021, the MPS responded. It provided the information related to actual murders but withheld the information related to attempted murders, citing sections 40(2) (Personal information) and 30(1) (Investigations and proceedings) of the FOIA.
5. The complainant requested an internal review on 5 February 2021. The MPS provided an internal review on 4 March 2021 in which it accepted that there had been a delay in responding but maintaining its position regarding the exemptions cited.
6. The Commissioner has viewed the requested information.

### Scope of the case

---

7. The complainant contacted the Commissioner on 4 March 2021, to complain about the way his request for information had been handled.
8. The complainant provided the following grounds of complaint:

*"I requested data from the Metropolitan Police Service in relation to Murders or Attempted Murders in London ... I was, after a lengthy delay, provided with a partial answer. I was not provided with the Gender, Age and Ethnic Appearance of both Victim and Suspect for each offence. The reason given was that it might enable me or others to identify individual persons. That is not, and never has been, my desire or intention. My argument [sic] is that to tell me that a 27 year old white male was killed by another white male aged approx 18 for example does not enable me to identify anyone, and this is the level of data that I requested".*

9. The Commissioner will consider the application of exemptions to the request below.

### Reasons for decision

---

10. The MPS has made the following disclosures to the complainant (where recorded):

#### Murders:

- Murder victims: Borough Name, Victim Apparent Age, Victim Gender and Victim Ethnic Appearance
- Murder suspects: Borough Name, Suspect Apparent Age, Suspect Gender and Suspect Ethnic Appearance

The suspects have *not* been cross-referenced to the murders.

Attempted murders:

- Attempted murder victims: Victim Apparent Age, Victim Gender and Victim Ethnic Appearance
- Attempted murder suspects: Suspect Apparent Age, Suspect Gender and Suspect Ethnic Appearance

The suspects have *not* been cross-referenced to the attempted murders and *no* borough locations have been provided.

### **Section 30 – investigations and proceedings**

11. Section 30(1)(a) of the FOIA states:

*"Information held by a public authority is exempt information if it has at any time been held by the authority for the purposes of:*

*(a) any investigation which the public authority has a duty to conduct with a view to it being ascertained-*

*(i) whether a person should be charged with an offence".*

23. The phrase "*at any time*" means that information can be exempt under section 30(1) if it relates to an ongoing, closed or abandoned investigation.

*Is the exemption engaged?*

12. Section 30 is a 'class based' exemption and it is not necessary to show that disclosure would, or would be likely to, result in any prejudice, for it to be engaged. It is enough that the information sought by the request falls within the particular class of information described by the exemption.
13. In order for the exemption to be engaged, any information must be held for a specific or particular investigation and not for investigations in general.

14. The Commissioner's guidance on section 30<sup>1</sup> describes the circumstances in which the subsections of section 30(1) might apply. With respect to section 30(1)(a), the guidance says:

*"The exemption applies to both investigations leading up to the decision whether to charge someone and investigations that take place after someone has been charged. Any investigation must be, or have been, conducted with a view to ascertaining whether a person should be charged with an offence, or if they have been charged, whether they are guilty of it. It is not necessary that the investigation leads to someone being charged with, or being convicted of an offence..."*

15. The MPS has explained:

*"As a police service our core function is law enforcement, we have a legal duty to investigate allegations of criminal offences with a view to it being ascertained whether person(s) should be arrested. On the basis of there being reasonable suspicion that an offence has been committed, and then to investigate that offence to obtain credible evidence for the CPS to assess whether person(s) should be charged with an offence.*

*In this particular instance the information being requested attracts the exemption because it was created, and therefore recorded by the MPS, for the purposes of its functions relating to the investigation and detection of criminal offences. The held information would relate to specific criminal investigations i.e. murder or attempted murder. These investigations may be concluded, ongoing or still open".*

16. The withheld information in this case relates to murders / attempted murders and seeks limited information in respect of individual cases. As a police force, the MPS has a duty to investigate allegations of criminal offences by virtue of its core function of law enforcement. The Commissioner is therefore satisfied that it has the power to carry out investigations of the type described in section 30(1)(a) of the FOIA and that the withheld information was held in connection with a specific investigation. He is therefore satisfied that the exemption provided by section 30(1)(a) is engaged.

---

<sup>1</sup> <https://ico.org.uk/media/for-organisations/documents/1205/investigations-and-proceedings-foi-section-30.pdf>

*Public interest test*

17. Section 30(1)(a) is subject to a public interest test. This means that even though the exemption is engaged, the information may only be withheld if, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

*Public interest arguments in favour of disclosure*

18. The MPS has argued:

*"Murder and attempted murder investigations are highly emotive and attract a lot of media attention. Full disclosure of the held information would enable boroughs within the MPS to establish how many offences have been reported within their borough and the demographics.*

*The MPS recognises that there is legitimate public interest therefore disclosure would reinforce and demonstrate the MPS's commitment as open, transparent and accountable in relation to these type of investigations and demonstrate that they are conducted properly".*

*Public interest arguments in favour of maintaining the exemption*

19. The MPS has argued:

*"There can be no stronger public interest indicator favouring withholding information than when tangible harm to the ability of the police to both prevent and detect crime would result from the release of information in full".*

20. It added:

*"The held information relates to relatively recent attempted murders between 01/04/2019 to 31/03/2020 ... which are low numbers whereby the cases could still be ongoing and not closed. Full disclosure could potentially lead to the identification of either suspects, victims or even witnesses".*

21. It also provided the following arguments:

*"... the release of the information requested could lead to the identification or misidentification of those persons linked to attempted murders, placing these persons at risk. The release of any information that is likely to put individuals at risk of harm and prejudice the ability of the MPS to both prevent and detect crime is unlikely to be in the public interest.*

*... The review considers that there is a real risk to individuals particularly where suspect data has been linked to victim data. To provide a hypothetical example, if a gang member had attempted to murder an associate, the information ... requested (Borough, Gender, Age and Ethnic Appearance of both Victim and Suspect) would be useful to the suspect to determine if the matter had been reported to police by the victim and this would place the victim at further risk of attack”.*

*Balance of the public interest test*

22. In reaching a conclusion on the balance of the public interest, the Commissioner has considered the public interest in the MPS disclosing the requested information. He has also considered whether disclosure would be likely to harm any investigation, which would be counter to the public interest, and what weight to give to these competing public interest factors.
23. The purpose of section 30 is to preserve the ability of relevant public authorities to carry out effective investigations. Key to the balance of the public interest in a case where this exemption is found to be engaged is whether disclosure could have a harmful impact on the ability of the police to carry out effective investigations. Clearly, it is not in the public interest to jeopardise the ability of the police to investigate crime effectively, and in turn, increase the risk of harm to members of the public from offenders.
24. Set against this, the Commissioner recognises the importance of the public having confidence in public authorities that are tasked with upholding the law. The FOIA is a means of helping to meet that public interest, as confidence will be increased by allowing scrutiny of how they discharge their functions.
25. The information under consideration here relates to the offences of murder and attempted murder, which are obviously very serious crimes. Some investigations may have been closed. However, as they are fairly recent, many are likely to be ongoing or unsolved. Disclosure of any information which could have any harmful effect on any of these investigations is clearly not in the public interest.
26. The withheld information shows information that the MPS holds regarding some very serious crimes from a recent time period. Whilst some of these may well have been reported in the public domain, and some of the outcomes may also be known, revealing further details which identifies those specific crimes will, inadvertently, disclose information about other crimes. Adding the locations of all the crimes and linking them with details of known suspects will reveal to the public,

(including the perpetrators) information about those crimes which have not been reported by victims or where the murder / attempted murder remains unknown. It would also provide intelligence regarding the numbers and descriptions of suspects that the MPS is aware of for each crime, allowing perpetrators to discover whether or not any details about themselves are known to the police. This goes to the heart of what the exemption at section 30 is designed to protect.

27. Taking all the above into account, whilst the Commissioner accepts that disclosing the withheld information would be likely to promote transparency, he considers that the public interest in disclosure is outweighed by the public interest in ensuring that the investigation and prosecution of any of these offences – and other unknown offences - is not undermined. Even where a case may have been determined, revealing the further details requested may allow perpetrators who have not been brought to justice to gain some insight as to whether or not their involvement with a crime is something which the police may suspect or hold intelligence about.
28. The Commissioner is therefore satisfied that the MPS was entitled to rely on section 30(1)(a) of the FOIA to refuse the request and that the public interest in maintaining the exemption outweighs the public interest in disclosure.
29. As the Commissioner has concluded that this exemption is properly engaged in respect of all of the information he has not considered the other exemption cited.

## **Other matters**

---

30. Although they do not form part of this notice the Commissioner wishes to highlight the following matters of concern.
  31. Although he did not complain to the Commissioner regarding the initial late response to the request, this delay is noted for monitoring purposes.
  32. The Commissioner will use intelligence gathered from individual cases to inform his insight and compliance function. This will align with the goal in his draft Openness by Design strategy<sup>2</sup> to improve standards of
- 

<sup>2</sup> <https://ico.org.uk/media/about-the-ico/consultations/2614120/foi-strategy-document.pdf>

accountability, openness and transparency in a digital age. The Commissioner aims to increase the impact of FOIA enforcement activity through targeting of systemic non-compliance, consistent with the approaches set out in our Regulatory Action Policy<sup>3</sup>.

---

<sup>3</sup> <https://ico.org.uk/media/about-the-ico/documents/2259467/regulatory-action-policy.pdf>



## Right of appeal

---

33. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

34. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
35. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed** .....

**Carolyn Howes**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**