

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 2 February 2023

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

### Decision (including any steps ordered)

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1. The complainant has requested data about Counter Terrorism ("CT") arrests from the Metropolitan Police Service (the "MPS").
2. The Commissioner's decision is that the information is not held by the MPS for the purposes of FOIA. No steps are required.

### Request and response

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3. On 19 March 2022, the complainant wrote to the MPS and requested information in the following terms:

"I am interested in more contextual data surrounding this statistic:

"One in eight counter-terrorism arrests now involves children, police said"

From this article:

<https://www.dailymail.co.uk/news/article-10625725/Middle-class-teenage-gamers-seduced-far-Right-terrorism-police-expert-warns.html>

I would like to request a list of all counter terrorism arrests from 1 January 2017.

I would like the list to be broken down by year and give the age of each person at the time of arrest.

For each arrest I would also like to know the type of terrorism the person is being arrested in connection to (eg. far right, environmental, animal rights, islamic terrorism).

I would like the data to be provided to me in Excel format".

4. On 11 April 2022 the complainant clarified his request as follows:

"Do you know what data set the police were using when they said that "One in eight counter-terrorism arrests now involves children"...?

Was it all arrests made by MPS Counter Terrorism officers or only those for Terrorism Act 2000 (TACT) offences?

I think for my purposes it might be good if you gave me a list of all arrests made by MPS Counter Terrorism officers... but for each list entry state whether the arrest was for a Terrorism Act 2000 (TACT) offence or not".

5. On 19 May 2022, the MPS responded. It explained:

"Regarding the statement reported in the Daily Mail article, the statistic quoted was derived from the quarterly stats released by the Home Office on the Operation of Police Powers under the Terrorism Act 2000. These show that during the 12 months to 31<sup>st</sup> December 2021, 20 of the 186 counter-terrorism (CT) related arrests were of children under the age of 18. This relates to all counter-terrorism related arrests nationally, under both TACT and other legislation.

You will note that, although this was stated to be 1 in 8 arrests, it would be more accurate to state this was 1 in 9 arrests".

6. It refused to provide the requested information relying on sections 24(1), 31(1)(a)(b) and 40(2) of FOIA. It would also neither confirm nor deny holding any further information by virtue of section 23(5) of FOIA.
7. The complainant requested an internal review on 1 June 2022 saying:

"You said that providing the information that I have asked for would enable "threat levels and counter-terrorism activity to be mapped across the UK" - but this is clearly untrue.

I have not asked for any data relating to the location of the arrest or the identity of the regional force that made the arrest".

I think that your argument for withholding this information is not logical and it would be great if you could reconsider your response".

8. The MPS provided an internal review on 16 June 2022 in which it maintained its original position.
9. During the Commissioner's investigation, the MPS liaised with the complainant and considered disclosure by way of an informal resolution. However, at a later stage it became apparent that there was confusion over who actually 'owned' the requested data and the MPS subsequently transferred the request to the National Police Chiefs' Council (NPCC) on 1 February 2023 for it to respond to.
10. The complainant was dissatisfied with this and argued that he believed that the MPS 'owned' the data. At this stage he also clarified that he only wished to have data from MPS officers, albeit the original article referred to in his request relates to all CT arrests nationally.

## **Scope of the case**

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11. The complainant is dissatisfied with the MPS's change in position regarding ownership of the data and whether or not it should comply with the request itself. The Commissioner will determine this below.

## **Reasons for decision**

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### **Section 1 – General right of access**

12. Section 1 of FOIA states that any person making a request for information is entitled to be informed by the public authority whether it holds that information and, if so, to have that information communicated to them.
13. In this case, it is agreed by all parties that the requested information exists; the issue for the Commissioner to consider is which public authority actually 'holds' the information for the purposes of responding to the request.

14. The information is physically located within MPS premises. It is contained in an excel spreadsheet in Counter Terrorism Command (also known as SO15), and is referred to as the "SO15 arrest tracker". The Commissioner has viewed the information.
15. As mentioned above, during the Commissioner's investigation the MPS was considering disclosure of the requested information. However, at a late stage of the investigation actual 'ownership' of the spreadsheet containing the data became an issue.
16. Following further enquiries, the MPS determined that it did not 'own' the spreadsheet and could therefore disclose its content.
17. The MPS determined that the spreadsheet was 'owned' by the NPCC and it subsequently transferred the request to NPCC for it to deal with; that request has now been received and accepted by NPCC.
18. The Commissioner raised queries with both MPS and NPCC regarding ownership of the requested information. The NPCC advised him as follows:

"Counter Terrorism Policing (CTP) is an NPCC national unit and therefore part of the NPCC which was designated as a public authority under section 5(1)(a) of FOIA) in 2018. The CTP MPS Region is one of 12 regions established by Chief Constables under the Section 22A Collaboration Agreement. Accordingly, the CT spreadsheet mentioned above, would be held by the NPCC and could be retrieved within cost by the NPCC, should a request be received by them. This information may be subject to exemptions".

19. Regarding the spreadsheet and its contents, NPCC advised:

"We have established that CT arrests under TACT are NOT recorded within the MPS databases. When a TACT arrest is made, a secure unit is used for the arrest process, and the CT officer will input this data directly into a CT spreadsheet. This spreadsheet is held on a MPS system, however, only CTP [Counter Terrorism Policing] have access to the spreadsheet.

When a CT officer makes an arrest under PACE [Police and Criminal Evidence Act 1984], the facilities of MPS police stations may be utilised, and therefore the MPS will hold information regarding the arrested person, however, this is not held in an easily retrievable format. All custody records would need to be searched to establish if a CT officer made the arrest, thus s12 [Cost of compliance] would apply to the volume of records requested in this case. These details are also input into the CT Spreadsheet by the CT officers only. This

spreadsheet is not used by forces for any policing function, and as already stated is not accessible by the MPS itself”.

20. Is it therefore clear to the Commissioner that CT officers, although physically located at various places throughout the country including the MPS region, are actually part of a separate national unit which falls within the remit of NPCC. The CT work that they undertake, including those duties which are input onto the spreadsheet in question, are therefore undertaken as part of their role within the CTP national unit rather than local policing. Whilst CT officers do conduct PACE arrests, the only arrest data the MPS will hold will be held in custody records. Whilst this may also be recorded on the SO15 arrest tracker, as has been established above, this spreadsheet is not held by MPS for its own purposes, it is to inform national CTP. It is not accessible to MPS policing. Accordingly, PACE arrest data will be held by MPS on custody sheets but will not be readily retrievable and its location and extraction would be very likely to invoke the section 12 cost limit. In any case, the request seeks all arrests, not just those made under PACE.
21. The Commissioner has considered the complainant's views and the evidence provided above. MPS had advised that it does not hold the requested information and NPCC has accepted ownership and agreed to deal with the request.
22. On this basis, the Commissioner is satisfied with the explanations given and agrees that the requested information is held by the NPCC. The MPS was therefore correct to transfer the request to NPCC, although belatedly.

## **Other matters**

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23. Although they do not form part of this notice the Commissioner wishes to highlight the following matter of concern.
24. The MPS did act in good faith as the spreadsheet is housed in one of its offices and it did not initially realise it was not its own data. However, this investigation has been unnecessarily complicated by the MPS failing to determine whether it held the information for the purposes of FOIA.
25. Had ownership been properly determined on receipt of the request then it could have been either immediately transferred to NPCC or the complainant could have been directed to the NPCC. This would have saved time for all parties.
26. This matter will be logged by the Commissioner for monitoring purposes.

## Right of appeal

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27. 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)

28. 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.
29. 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 .....**

**Laura Tomkinson**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
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