

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 April 2015

Public Authority: Chief Constable of Devon & Cornwall Police

Address: Police Headquarters

Middlemoor

Exeter

Devon

EX2 7HQ

Decision (including any steps ordered)

1. The complainant has requested information about a police investigation into the disappearance of a woman in 1963. Devon and Cornwall Police neither confirmed nor denied whether it held the information, citing the costs provisions established under section 12(2).
2. The Commissioner's decision is that Devon and Cornwall Police is entitled to rely upon section 12(2) to neither confirm nor deny whether it holds the requested information. The Commissioner requires no steps to be taken.

Background

3. Doris Symonds disappeared in 1963. No trace has ever been found of her and although her husband was charged with her murder in 1972, the Commissioner understands that his trial was abandoned due to lack of evidence.
4. The National Archives holds records on the investigation into Doris Symonds' disappearance, and there has been some public speculation about what may have happened to her, including a least one television programme which considered the case. The complainant, an author, is considering writing a book on the case, and is seeking access to official information to assist with this.

Request and response

5. On 8 July 2014 the complainant wrote to Devon and Cornwall Police and requested the following information in connection with the investigation into the disappearance of Doris Symonds in 1963:

"To save you time and unnecessary work, what I am seeking is as follows:

- 1. Statements made to the police that are not included in TNA J311/13, including, in particular, the statement of Mrs Freda Symonds (nee Bennelack).*
 - 2. A summary of the leads followed up by the police in their search for Doris Symonds. (For example, I know that a female body was disinterred at Brixham and that the Australian electoral rolls were scrutinised. I am seeking information on what other searches were made and not the details of how they were conducted).*
 - 3. A briefing paper written in 1972 by a police officer with legal training on legal aspects of a murder where no body could be found. (This would be of great use to me as I understand that it was an excellent summary of the legal position in 1963).*
 - 4. GBS became implicated in a quite separate murder enquiry in Muscat in 1977 as a result of which the Royal Oman Police contacted the Devon and Cornwall Police by telex, asking for details of the disappearance of Doris. I have written to the Oman Police but there has been no reply. I would very much like to obtain an outline of this alleged murder; if nothing else, just the name of the victim. The only reason the Oman Police dropped the case was that GBS was found to be suffering from terminal cancer and he was extradited to the UK where he died a few weeks later."*
6. Devon and Cornwall Police responded on 24 July 2014. It stated that it was unable to confirm or deny whether it held information described in the request because the costs of doing so would exceed the appropriate limit (section 12(2) of the FOIA).
7. Following an internal review Devon and Cornwall Police wrote to the complainant on 18 September 2014. It maintained its position.

Scope of the case

8. The complainant contacted the Commissioner on 22 September 2014 to complain about the way his request for information had been handled. He stated that he found the implication that the requested information was not easily retrievable difficult to accept. He pointed to the media interest in the case and the fact that the disappearance was unsolved. He contended that at the very least Devon and Cornwall Police should hold a missing persons file for Doris Symonds.
9. The Commissioner considers the scope of the case to be whether Devon and Cornwall Police is entitled to rely upon section 12(2) to neither confirm nor deny whether it holds the requested information.

Reasons for decision

10. Section 12(1) states that a public authority is not obliged to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.
11. Section 12(2) states that subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit.
12. In this case, Devon and Cornwall Police estimates that it would exceed the appropriate limit to confirm whether or not the requested information is held. In other words, it is citing section 12(2).
13. The appropriate limit in this case is £450, as laid out in section 3(2) of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ("the Regulations").
14. The Regulations allow a public authority to charge the following activities at a flat rate of £25 per hour of staff time, providing an effective time limit of 18 hours work:
 - determining whether the information is held;
 - locating the information, or a document which may contain the information;
 - retrieving the information, or a document which may contain the information; and
 - extracting the information from a document containing it.

15. When estimating whether confirming or denying if it holds the requested information would exceed the appropriate limit, a public authority may take into account the costs it reasonably expects to incur in determining whether it holds the information. The estimate must be reasonable in the circumstances of the case. However, it is not necessary to provide a precise calculation.
16. Devon and Cornwall Police explained that although it issued a neither confirm nor deny response, it has carried out certain searches in an effort to assist the complainant. It has explained that, broadly, there are two categories of information within which the information might be located. For ease of reference the Commissioner has defined these categories as "operational information" and "historical information".

Operational information

17. Devon and Cornwall Police explained that it did not begin computerising its investigation records until 1992. Criminal investigations which have been live since then are electronically searchable. Although the investigation which the complainant is researching pre-dates the computerisation of its records by several decades, it has nevertheless conducted searches of its computerised records and found no information which is covered by the request.

Is Mrs Symonds' disappearance classed as an "open" case?

18. Devon and Cornwall Police has confirmed that it does not hold an open missing persons case in respect of Doris Symonds. It has checked the Police National Computer and liaised with the National Missing Person's Bureau and the Metropolitan Police and none of these agencies hold an open missing persons file in respect of Mrs Symonds.
19. Its Records Management Centre stores hard copies of investigation files and these are retained and destroyed in line with official guidance on record retention. Devon and Cornwall Police has confirmed that its Records Management Centre does not hold a file or any related records about Mrs Symonds' disappearance.
20. The disappearance of Mrs Symonds is not considered to be a live policing matter, and so no catalogued files are held on it. If new information was received which suggested that a criminal offence had been committed, it would be referred to the Criminal Case Review Unit, which deals with review work involving historic cases.

Does it hold information about enquires from the Royal Oman Police in 1977?

21. The complainant felt that Devon and Cornwall Police should be able to locate information about Doris Symonds' husband's alleged involvement in a murder in Oman in 1977. The force confirmed that it manually searched 26 boxes of pre 1992 prosecution files held in its Record Management Centre, but has located no information about this matter.

Historical information

22. Devon and Cornwall Police is satisfied that it holds no relevant information in its Records Management Centre or in electronic form. However, it explained that it could not be certain that it did not hold information in a huge uncatalogued historical archive held in its Heritage and Learning Centre.

23. This collection has been amassed over a number of years by police staff and officers and from donations from members of the public. It contains thousands of items, including records, photographs, uniforms, equipment, works of art and memorabilia, all reflecting and illustrating the evolution of policing in the area from the 1800s to the present day. Devon and Cornwall Police cannot rule out the possibility that information which is relevant to the request might be held within that archive.

24. The collection is housed across three large storage rooms in boxes and bags and it is currently being catalogued by volunteers. Devon and Cornwall Police undertook a sampling exercise and was able to assess the contents of five boxes in an hour. It does not know how many boxes and bags it currently holds, but it has photographed the entire storage facility and the Commissioner has seen the pictures. In one photo alone (see Annex A to this decision notice) there appear to be about 200 boxes, and this represents only a part of the entire collection.

25. Based on the sampling exercise it would take 40 hours to examine the rack of boxes in that one photo. This equates to a cost of £1000 to search the area shown in the photo, which greatly exceeds the cost limit of £450.

26. The Commissioner is satisfied that the cost limit would be exceeded just by searching the area shown in the photograph, and therefore accepts that Devon and Cornwall Police is entitled to rely on section 12(2) to neither confirm nor deny whether it holds the requested information.

27. Section 16 of FOIA requires a public authority to provide advice and assistance to requesters so far as it is reasonable to do so. In this case, due to the age of the information and the size of the archive there was little in the way of advice it could give on refining the request. However,

the Commissioner notes Devon and Cornwall Police's willingness to search its operational information, and also the fact that it contacted external agencies regarding the case, to check if they might be able to assist the complainant and is satisfied that it has discharged its obligations in respect of section 16.

Right of appeal

28. 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: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

29. 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.
30. 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

Rachael Cragg
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Annex A



Photograph of one shelving unit in the Heritage and Learning Centre.