NORFOLK CONSTABULARY

Our Priority is You

Norfolk Constabulary

Freedom of Information Department
Jubilee House
Falconers Chase
Wymondham
Norfolk NR18 0WW

Tel: 01953 425699 Ext: 2803
Fax: 01953 42 4080
Email: freedomofinformation@norfolk.pnn.police.uk

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Dear Member of the public

Freedom of Information Request Reference N^{o}: FOI 272/11/12

I write in connection with your request for information received by the Norfolk Constabulary on the 30th August 2011. As explained in the previous response although this was logged as one request we feel that it is better answered in 3 separate responses. This response relates to question 5 of your request where you have sought access to the following information:

5) Information relating to any external expertise used by the police during the investigation into the CRU UEA email hacking / leak.

This would include:

a) Contracts with private third party companies with expertise in computer hacking / security and any documentation or record of advice gained from such companies.
b) Any contact with other government agencies, such as MI5 or MI6 and any documentation or record of advice gained from such agencies

Norfolk Constabulary holds information relevant to your request.

Response to your Request

Norfolk Constabulary has located the following information as relevant to your request.

During the investigation into the leak of emails from the Climatic Research Unit at the University of East Anglia, Norfolk Constabulary has received external expertise from the following third parties:

- Qinetiq
- 7Safe
- Information Commissioner's Office
- National Domestic Extremism Team

The duty in Section 1(1)(b) of the Freedom of Information Act 2000 to provide a copy of documentation or advice provided by these external third party information does not apply by virtue of the following exemptions:

- Section 30(1) Investigations and proceedings conducted by public authorities

Section 30 is a class based qualified exemption and consideration must be given as to whether there is a public interest in maintaining the exemption which is greater than the public interest in disclosing it.

Section 30 - Public Interest Considerations Favouring Disclosure:

This is a high profile investigation with significant public and media interest. Disclosure of this information would demonstrate how public funds are being spent as part of the Constabularies responsibilities in respect of investigating and detecting crime. Detailing what expert advice has been received could satisfy the public that the investigation is being properly conducted.

Section 30 - Public Interest Considerations Not Favouring Disclosure:

This is an ongoing investigation and detailing the information which has been received from these companies could prejudice the investigation. Disclosure of this information could identify a specific focus of the investigation and could allow an individual to assess whether they and/or their methods have or have not been identified. Armed with this knowledge, individuals may take steps to destroy evidence or avoid apprehension, or should the investigation result in a prosecution the release of the information may prejudice the trial and the right to a fair trial.

Public Interest Balancing Test:

Whilst there is a significant public interest in this investigation and the enquiries that the Constabulary are carrying out in order to identify any offender(s), it is essential that the investigation process and any potential proceedings are not hindered by disclosure of information via a Freedom of Information request. There is an ongoing public interest in not disclosing details of specific investigative techniques in relation to such specialist investigations. Revealing the exact nature of the services and expertise provided by these companies would indicate the types of lines of enquiry that may be pursued in cases relating to the unauthorised publication of information, thus enabling individuals to take steps to evade detection. The relevant technology and technical ability of both perpetrators and investigators is constantly evolving and it is vital that the police and other bodies involved in the investigation process are able to protect their law enforcement techniques, methods and knowledge so as to maintain the best possible opportunity of identifying both offences and offenders. It is our opinion that the balance of the public interest test favours maintaining the exemption and this information should not be disclosed.

This response serves as a refusal notice under Section 17(1) of the Freedom of Information Act by virtue of the application of the exemption 30(1) of the said Act.

The Norfolk Constabulary can neither confirm nor deny that it holds any other information relevant to your request as the duty at Section 1(1)(a) of the Freedom of Information Act 2000 does not apply, by virtue of the following exemptions:

- Section 30(3) Investigations and proceedings conducted by public authorities
- Section 23(5) Information provided by or relates to an exempt body
- Section 24(2) National Security

Section 23 is a class-based, absolute exemption and no further explanation is required to be provided. Section 24 is a prejudice-based, qualified exemption and it is necessary to explain the harm of confirming whether or not information is held and consider the competing public interest.
Section 30 is a class based qualified exemption and thus subject to a public interest test.

The harm in confirming or denying whether any other external third party expertise has been used or is currently in use during the ongoing investigation relates to the potential to reveal specific lines of enquiry and investigation methods in connection with this specific investigation and other future investigations of this type.

Public Interest Considerations Favouring Confirmation of whether Information is Held:

Confirming or denying whether advice has been gained from such third parties would provide the public with details of the investigation process carried out by the Constabulary. There is a public interest in the transparency of policing operations to ensure investigations are conducted appropriately.

Public Interest Considerations Not Favouring Confirmation of whether Information is Held:

Whilst an investigation is ongoing the Police must be able to pursue all lines of enquiry and investigation techniques available without alerting individuals as to whether or not their activities have come under scrutiny, which in turn could lead to individuals taking action to destroy evidence and evade detection.

Revealing whether or not certain external bodies have been consulted will reveal information about the type of enquiries that are undertaken in respect of this specific type of crime.

Public Interest Balancing Test:

The Police Service will not divulge whether information is or isn't held if to do so would compromise any current or future investigations. At this time, it is our opinion that the balancing test for confirming or not that further information is held is not made out.

This letter serves as a refusal notice under the provisions of Section 17(1) of the Freedom of Information Act (2000).

No inference can be taken from this refusal that the information you have requested either does or does not exist.

This response will be published on the Norfolk Constabulary's web-site www.norfolk.police.uk under the Freedom of Information pages at Publication Scheme - Disclosure Logs.

Should you have any further queries concerning this request, please contact me quoting the reference number shown above.