



**NORFOLK**  
CONSTABULARY  
*Our Priority is You*

April 2020

## **Freedom of Information Request Reference N°: FOI 000972/20**

I write in connection with your request for information received by Norfolk Constabulary on the 5<sup>th</sup> March 2020 in which you sought access to the following information:

Please can you provide me with data of murders in your police force over the last 10 years (2010-2020 or to the most recent available data). In financial or calendar years, however this information is held.

Broken down by:

- 1 Solved or unsolved - Please include the last outcome category given, and if there are any other status that would be indicative of solved/unsolved crime (e.g. 'Filed no suspect, no further enquiries', etc).

For each of these murders please provide:

- Victim's ethnicity (established, self-defined or ethnic appearance).
- Victim's gender, nationality and age group.
- Offender/Principal suspect ethnicity, gender and nationality.
- Motivation or circumstance of crime (if known) and relationship between offender/principal suspect and victim.

## **Response to your Request**

The response provided below is correct as of 13<sup>th</sup> March 2020.

Norfolk Constabulary has considered your request and our response is below.

The attached spreadsheet provides information recorded crimes of murder and manslaughter. Please note, we have only been able to retrieve data from 2014 onwards.

There is one recorded crime in 2018 which remains under investigation and no details have previously been released. Exemptions within the Act have been engaged in relation to this crime.

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.

Section 17 of the Freedom of Information Act 2000 requires that Norfolk Constabulary, when refusing to provide such information (because the information is exempt) is to provide you, 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(s) applies.

The information is exempt from disclosure by virtue of the following exemptions:-

- **Section 40(2) Personal Information**
- **Section 30(1)(a)(b) Investigations**

Section 30 is a qualified, class based exemption and I am therefore obliged to consider the public interest.

#### **Section 40**

Section 40 is an absolute; class based exemption and applies to third party personal data. This would not be released under the FOIA unless there is a strong public interest. This is because any release would breach the Principles contained within Article 5(1) of the GDPR and Part 2 of the Data Protection Act 2018.

One of the main differences between the Data Protection Act and the Freedom of Information Act is that any information released under FOI is released into the public domain, not just to the individual requesting the information. As such, any release that identifies an individual through releasing their personal data, even third party personal data, is exempted unless there is a strong public interest in its release. The public interest is not what interests the public but what benefits the community as a whole.

Personal data is defined under the Data Protection Act as data that is biographical in nature, has the applicant as its focus and/or affects the data subject's privacy in his or her personal, professional or business life.

Principle (a) of Article 5(1) states that information must be processed fairly, lawfully and in a transparent manner. The information pertains to special category data owing to the fact it relates to information concerning investigations, which could identify a person's involvement with an offence. Lawfulness refers to occasions where disclosure would not breach statute or common law obligations.

In this case we consider the Human Rights Act 1998. Although there is a named suspect, this case is still under investigation. The individual would not expect their details to be processed in response to an FOI request. The Constabulary therefore considers it would be in breach of their Human Rights Act by disclosing these details which may identify those involved and therefore disclosure would not be lawful.

With regards to the fairness aspect, the processing of information should be in a manner that individuals would reasonably expect, not in a way that could result in unjustified adverse effects on them. In this case, the individual would have a reasonable expectation that information would not be processed if it resulted in their identification. Disclosure of this nature can equally lead to an individual being misidentified from the disclosure. The Constabulary has a duty to ensure data is processed in accordance with Data Protection Legislation. We feel in this occasion, it would not be fair to process this data outside of usual policing processes.

FOIA disclosures are to the world at large and will remain in the public domain indefinitely. Therefore, provision of this information would exceed the original Policing requirement for the processing of the information and would not be lawful or fair to the individuals in question.

It is for these reasons outlined above; that I feel the principle would be breached by this disclosure and the Section 40 exemption remains in place. I am not obliged to consider any further principle in my arguments.

This is an absolute, class-based exemption and, as such, there is no requirement to consider the public interest test.

## **Section 30**

### **Factors favouring disclosure**

The disclosure of details relating to an investigation would provide the public with reassurance that the Constabulary takes all reports of crimes seriously and that these are managed appropriately, ensuring all relevant enquiries are undertaken. This is even more so when we are investigating crimes of homicide.

Investigations are conducted using public funds therefore disclosing information provides transparency of the way public money is used.

Disclosure of investigation details would increase public confidence and could result in more people coming forward with information. This would assist investigations and lead to more successful prosecutions.

### **Factors favouring non-disclosure**

Information relating to specific investigations, which are still under investigation, is rarely provided under the FOI Act as it would lead to the identification of those involved. It is vital that information continues to be received from victims and witnesses when carrying out investigations and they may be reluctant to provide information if they believe that details relating to the investigation could be released, via an FOI request.

Releasing details of ongoing enquiries could result in individuals taking action to avoid detection and destroy evidence.

Releasing the details under the FOIA would therefore hinder investigations undertaken by the Constabulary.

### **Balance Test**

There is a public interest in the way in which the Constabulary conducts investigations. Providing any details of the investigation would therefore be in the public interest and provide reassurance that crimes are appropriately investigated.

The Constabulary's Press Office will make disclosures in a timely and ordered manner, to ensure any disclosures assist the Police in their enquiries. However, this does not necessarily mean that it would be appropriate for the Constabulary to release details under the Freedom of Information Act.

Significant public funds are required to ensure that investigations are appropriately managed and all possible enquiries undertaken, to identify and successfully prosecute offenders. The Constabulary would therefore not reveal any details which would hinder this process.

It is therefore our opinion that the balance lies in non-disclosure, at this time. This serves as a refusal notice under section 17(1) of the FOI Act by virtue of the exemption at section 30(1).