



17th June 2019

Freedom of Information Request Reference N^o: FOI 001783/19

I write in connection with your request for information received by the Norfolk and Suffolk Constabularies on the 10th May 2019 in which you sought access to the following information:

- Q1 Firstly, I would like to know how many times your force has recorded a firearm being discharged in 2018.
- Q2 Then, if I could please get those figures for 2017 and then 2016, I'd be very grateful.
- Q3 I understand the definition of a firearm being discharged is if it is 'fired - causing injury to a person', 'fired - causing property damage' and 'fired - no injury to person or damage to property'. Please let me know if your force has a different definition.
- Q4 Secondly, could I obtain a breakdown of the number of under 18's investigated for possessing a firearm for 2018, then 2017 and 2016.
- Q5 And, could you indicate how many for each age bracket (so, the number of 17 year olds, 16s, 15s etc)?

CLARIFICATION:

Q1/2 is in relation to general public and NOT Police Officers

Response to your Request

The response provided below is correct as of 23rd May 2019.

Norfolk and Suffolk Constabularies have located the following information as relevant to your request.

Q1 & 2

Offence	2016	2017	2018
NORFOLK			
1. Fired causing injury to a person	5	1	4
2. Fired causing property damage only	0	7	5
3. Fired, no injury or property damage	9	4	1
SUFFOLK			
1. Fired causing injury to a person	4	7	1
2. Fired causing property damage only	0	9	6
3. Fired, no injury or property damage	5	0	0

- Q3 The figures have been taken from data used to complete the Annual Data Return (ADR) crimes involving firearms.

- Q4 Norfolk and Suffolk Constabulary will **neither confirm nor deny** whether any information is held in respect of this question by virtue of the exemptions at sections 30(3) and 31(3) of the Freedom of Information Act.
- Q5 Norfolk and Suffolk Constabulary will **neither confirm nor deny** whether any information is held in respect of this question by virtue of the exemptions at sections 30(3), 31(3), 38(2) and 40(5) of the Freedom of Information Act.

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.

Where exemptions are relied upon, section 17 of the Freedom of Information 2000 requires the Constabularies to provide you, the applicant, with a notice which:-

- a. States that fact
- b. Specifies the exemptions in question, and
- c. States (if that would not otherwise be apparent) why the exemptions apply

The Constabularies **neither confirm nor deny** whether information is or isn't held by virtue of the following exemptions:-

- Section 30(3) Investigations
- Section 31(3) Law Enforcement
- Section 38(2) Health and Safety
- Section 40(5) Personal Information

Section 40 is a class based absolute exemptions, which means there is no requirement to articulate any public interest considerations or harm.

That being said with regard to section 40(5), it should be articulated which of the Data Protection Principles would be breached by confirming whether information is or isn't held. To confirm whether or not any information is held would breach the Principles contained within Article 5(1) of the GDPR and Part 2 of the Data Protection Act 2018.

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.

Any disclosure which identifies an individual by releasing their personal data, even third party personal data, is exempted, unless there is a strong public interest in its release.

Principle A of Article 5(1) states that information must be processed lawfully, fairly and in a transparent manner. In this case, to even confirm whether any information is or isn't held, individuals would have a reasonable expectation that information would not be processed if it resulted in their identification.

FOIA disclosures are published on the Constabularies websites, making them available to the world at large and this means they will remain in the public domain indefinitely. Therefore, the provision of any information, if it exists, would exceed the original requirement for the processing of information and would not be lawful or fair to an individual.

In view of the above, under the terms of the Freedom of Information Act, and by virtue of the exemption at section 40(5), which relates to personal information, Norfolk and Suffolk Constabularies will neither confirm nor deny whether any information, relevant to your request, is or isn't held.

Section 30 is a class based qualified exemption and consideration of the public interest must be given as to whether confirmation or denial is the appropriate response.

Sections 31 and 38 are prejudice based qualified exemptions and there is a requirement to articulate the harm that would be caused by confirmation or denial of whether information is held, as well as carrying out a public interest test.

Evidence of Harm

Any disclosure under the Freedom of Information Act (FOIA) is a release to the public at large and not only to the person requesting the information. Whilst not questioning the motives of an applicant, merely confirming or denying whether any information is or isn't held, would undermine any ongoing investigations and highlight potentially vulnerable forces. Where information is held, to then break down any information by age bracket would significantly risk the identification of individuals and place them at risk.

Any information could assist those involved in criminal activity to identify areas in which to operate and the methods to use. This would undermine the prevention and detection of crime. The confirmation or denial of whether any information exists could either identify any existing cases or disclose if no investigations are ongoing.

Confirming the age groups would show if any age groups have not been investigated and criminals may use this information to consider using individuals within that age bracket to carry firearms as they are less likely to be investigated.

It is important that the Constabulary's neither confirm nor deny whether any relevant information is held for the reasons above. To do so would impact upon investigations and law enforcement, increase the likelihood of identifying individuals and place persons at risk of harm. Moreover, during a time where County lines activity is a serious concern (please see link below), we would not want to provide information that would allow those involved in criminal activity to enhance their current methods.

<https://news.npcc.police.uk/releases/county-lines-urban-drug-gangs-target-coastal-communities>

Public Interest Considerations

Section 30 - factors favouring confirmation or denial as to whether information does or doesn't exist
Confirming or denying whether any information exists, relevant to this request, would lead to a better informed public. This would result in increased public knowledge and understanding of police investigations.

To confirm whether or not any information is held, this would enhance public confidence and provide reassurance that public funds are managed appropriately.

Section 30 – factors against confirmation or denial as to whether information does or doesn't exist
Under the Freedom of Information Act there is a requirement to comply with section 1(1)(a) and confirm whether information is held. In some cases it is that confirmation, or not, which could disclose facts, harmful to an investigation and, in such cases, Norfolk and Suffolk Constabularies take advantage of the ability under FOI legislation, to, where appropriate, neither confirm or deny whether the requested information is or isn't held.

Confirmation that any information is held would prejudice how an investigation is being carried out, by potentially identifying an individual and them moderating their behaviour to avoid detection. Furthermore, to make an individual aware that they are being investigated would reveal sensitive information into the public domain prejudicing that investigation.

Section 31 - factors favouring confirmation or denial as to whether information does or doesn't exist

The confirmation or denial of whether information is or isn't held would lead to increased public awareness into the work undertaken by the Constabularies with regard to firearms offences. An increased awareness could lead to more people coming forward with information which would result in a reduction of crime.

Section 31 – factors against confirmation or denial as to whether information does or doesn't exist

The confirmation or denial as to whether any relevant information is held would compromise the effective delivery of operational law enforcement and prejudice the prevention and detection of crime. For example, if offenders became aware that there was a significant number of under 18s being investigated in some force areas and other areas the numbers were very low, they could move their activities to those areas. The reason behind such a move could be that persons involved in such activities may believe that those forces where there are less investigations, is due to forces being less equipped to deal with activity of this nature.

Additionally, if it was identified that individuals under a certain age have not been investigated by a force for a period of three years, it may increase the likelihood of gangs using children of that age bracket to carry firearms. This could increase the activity of offences relating to firearms within a force area which would prejudice the prevention and detection of crime.

Section 38 - factors favouring confirmation or denial as to whether information does or doesn't exist

Confirmation or denial as to whether any information is or isn't held would provide reassurance to the general public that the Constabularies act in a transparent manner. Any awareness would assist with more accurate public debate and improve public awareness on this subject.

Section 38 – factors against confirmation or denial as to whether information does or doesn't exist

Confirming or denying whether information is or isn't held could lead to a loss of public confidence in Norfolk and Suffolk Constabularies ability to protect the public.

Disclosure could also lead to individuals being targeted and caused physical harm as gang members try to ascertain if someone is being investigated. Members of the public and officers trying to protect individuals could also be placed at risk of harm. Any information that causes rumour and speculation could result in persons being targeted.

Balance Test

The above points highlight the merits in confirming or denying whether any information, relevant to this request, does or doesn't exist. The Police Service is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. The Police Service will never divulge whether or not information exists, if to do so would place the safety of an individual or individuals at risk, compromise an ongoing investigation or undermine the policing purpose, in the effective delivery of operational law enforcement.

Whilst there is a public interest in the transparency of policing operations and investigations, providing reassurance that the Police Service is appropriately and effectively engaging with the threat from criminals, there is a very strong public interest in safeguarding the health and safety of individuals. As much as there is a public interest in knowing that policing activity is appropriate and balanced, it will only be overridden in exceptional circumstances.

Therefore, at this moment in time, it is our opinion that for these reasons, the balance test for neither confirming nor denying whether information is or isn't held, is the appropriate response.

No inference should be taken from this refusal as to whether any other information does or does not exist.

This response will be published on the Constabularies web-site under the Freedom of Information pages:-

<https://www.norfolk.police.uk/about-us/our-data/disclosure-log>

<https://www.suffolk.police.uk/services/freedom-information/disclosure-logs>

Should you have any further queries concerning this request, please contact Amanda Gibson, FOI Decision Maker, quoting the reference number shown above.

A full copy of the Freedom of Information Act (2000) can be viewed on the 'Office of Public Sector Information' web-site;

<http://www.opsi.gov.uk/>

Norfolk and Suffolk Constabularies are not responsible for the content, or the reliability, of the website referenced. The Constabulary cannot guarantee that this link will work all of the time, and we have no control over the availability of the linked pages.

Your Right to Request a Review of Decisions Made Under the Terms of the
Freedom of Information Act (2000).

If you are unhappy with how your request has been handled, or if you think the decision is incorrect, you have the right to ask the Norfolk and Suffolk Constabulary to review their decision.

Ask Norfolk and Suffolk Constabularies to look at the decision again.

If you are dissatisfied with the decision made by Norfolk and Suffolk Constabularies under the Freedom of Information Act (2000), regarding access to information, you must notify the Norfolk and Suffolk Constabulary that you are requesting a review within 40 days of the date of its response to your Freedom of Information request. Requests for a review should be made in writing and addressed to:

*Freedom of Information Decision Maker
Information Management Department
Norfolk Constabulary
Operations and Communications Centre
Jubilee House
Falconers Chase
Wymondham
Norfolk NR18 0WW
OR
Email: freedomofinformation@norfolk.pnn.police.uk*

In all possible circumstances Norfolk and Suffolk Constabulary will aim to respond to your request for us to look at our decision again within 20 working days of receipt of your request for an internal review.

The Information Commissioner.

After lodging a request for a review with Norfolk and Suffolk Constabulary, if you are still dissatisfied with the decision, you can apply to the Information Commissioner for a decision on whether the request for information has been dealt with in accordance with the requirements of the Act.

For information on how to make application to the Information Commissioner please visit their website at www.ico.org.uk or contact them at the address shown below:

The Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Telephone: 01625 545 700