

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 March 2019

Public Authority: Commissioner of the Metropolitan Police Service

Address: New Scotland Yard
Broadway
London
SW1H 0BG

Decision (including any steps ordered)

1. The complainant requested a copy of a report from the Metropolitan Police Service (the "MPS"). Having initially refused to confirm or deny whether it held the report the MPS subsequently advised the complainant that it did not hold it.
2. The Commissioner's decision is that, on the balance of probabilities, the MPS does not hold the requested information. She does not require the MPS to take any steps.

Request and response

3. On 18 September 2018 the complainant wrote to the MPS and requested information in the following terms:

"Under the terms of the Freedom of Information Act 2000, please provide me with full copies of all reports written in the past 10 years regarding Jack The Ripper.

I do not wish to see the ledgers of Met Police informants, as I know such requests have been rejected before.

I have been told that the MPS in recent years concluded that Aaron Kosminksi was the most likely suspect, therefore I would like to see any reports written on him, including meeting papers, internal memos and emails".

4. On 11 December 2018 the MPS responded. It refused to confirm or deny whether any information was held and cited sections 30(3) and 31(3) of the FOIA as its basis for doing so.
5. Following an internal review the MPS wrote to the complainant on 29 December 2018. It maintained its position.
6. During the Commissioner's investigation the MPS revised its position. It advised that no information was held.

Scope of the case

7. The complainant contacted the Commissioner on 29 December 2018 to complain about the way his request for information had been handled. During the investigation the MPS revised its position. Having initially spoken to him in order to try and informally resolve the case, the MPS wrote to him on 27 February 2019 to advise that no information was held.
8. The Commissioner wrote to the complainant to seek his views and ascertain whether or not he was satisfied with the revised position. The complainant responded saying:

"The MPS did ring me to try to resolve this informally, by saying they definitely didn't have any information on this case.

But I'm afraid I would like you to continue with this investigation as we were told by a very senior officer at the MPS that such information did exist, and we have no reason to doubt them.

In addition, in the MPS's Internal Review (27/2/19) they said that multiple records created on different dates are kept together in one file and dated according to the most recent entry, so that they are not treated as historical records.

Therefore when they now say they have 'failed to locate any information relevant to your request', they are claiming that there is no file on the most famous murderer in London's history. I cannot believe that is true, even if much of the original evidence is in the National Archives".

9. The Commissioner will consider whether or not the MPS holds any information below. However, it is noted that the request specifies "all reports written in the past 10 years" so that is the extent of her enquiries; any information which may be held prior to that time period falls outside the scope of the request and has therefore not been considered.

Reasons for decision

Section 1 – general right of access

10. Section 1 of the 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 him.
11. In this case, the complainant says that the MPS is likely to hold information relevant to his request. The MPS's position is that it does not.
12. In cases where there is some dispute about the amount of information located by a public authority and the amount of information that a complainant believes might be held, the Commissioner – following the lead of a number of First-tier Tribunal decisions – applies the civil standard of the balance of probabilities. In essence, the Commissioner will determine whether it is likely, or unlikely, that the public authority holds information relevant to the complainant's request.
13. The Commissioner will consider the complainant's evidence and arguments. She will also consider the actions taken by the public authority to check whether the information is held and any other reasons offered by the public authority to explain why the information is not held. She will also consider any reason why it is inherently likely or unlikely that information is not held. For clarity, the Commissioner is not expected to prove categorically whether the information is held, she is only required to make a judgement on whether the information is held on the civil standard of proof of the balance of probabilities.

The MPS's searches

14. The Commissioner made enquiries regarding the searches made for information falling within the scope of this request and why these searches were considered the most appropriate ones to undertake. She was advised by MPS as follows:

"Searches were conducted on the corporate Records Management System (RMS), which indexes corporate paper files. Any inquiry into the 'Jack the Ripper' case should have been registered on RMS. Inquiries were also made with the Crime Museum; the curator stated that no police investigation into Jack the Ripper has been conducted in the last 10 years. Inquiries were made with the Specialist Casework Investigation Team of the Homicide & Major Crime Command. Their response was that they are not aware of any review of the files relating to Jack the Ripper within the last 10 years".

15. The MPS also clarified that:

"Searches were conducted on MPS computer systems. A search was carried out on the Mets IIP (Integrated Information Platform) system. A search on this system will carry out searches on MPS systems [CAD Computer-aided dispatch], CrimInt [Criminal Intelligence], CRIS [Crime reporting Information System], NSPIS custody system, MERLIN [Missing Persons & Related Linked Indices System] and stops database) without having to log into each system several times. The search on IIP resulted in No information held relevant to this request".

16. It had also conducted enquiries within its National Counter Terrorism Policing Headquarters and Professional Standards which both resulted in "No Information Held".

17. As the complainant had indicated that he understood the report to exist on the basis of information he had received from "a very senior officer" the MPS added that it had "... enquired with the Commissioners Private Office which also resulted in No Trace".

18. The MPS advised that the search terms which were used when conducting its electronic data searches were "Jack The Ripper" and "Aaron Kosminski". It added that: "There is no record of information relevant to the complainant's request being destroyed or deleted" and confirmed that if electronic data had been deleted then there should be no copies held at other locations.

19. In respect of this type of information the MPS advised the Commissioner that:

"Such record types are retained in line with Management of Police Information (MoPI) Codes of Practise [sic]. The offence type is such that it would be considered a MoPI Group 1 offence (MAPPA Managed offenders, serious offences as specified in Schedule 15 Criminal Justice Act 2015, potentially dangerous persons). This permits the record to be retained for the lifetime of the youngest nominal, subject to a rolling 10 year review. There is no longer the statutory duty select those records that ought to be permanently preserved, as this ceased in 2000 with the enactment of Great[er] [sic] London Authority Act 1999 with the creation of the Metropolitan Police Authority....

This information can be retained if a policing purpose exists. Information relating to this type of crime is usually held whilst the alleged defendant is still living, because the offence is of such a seriousness that the nominal may pose a threat to public safety...

Where information was created before 31st March 2000 and is deemed to have historical value there is a statutory duty under the Public Records Act to select for permanent preservation. However, assuming the information ... ever existed in the first place, because it would have been created after March 2000, no such requirement to select for permanent preservation exists, and MoPI rules would apply”.

The Commissioner's conclusion

20. It is noted that the complainant believes that the requested report was written and that he has been advised by a third party, whose information he believes can be trusted, that this is the case. However, although invited to provide further details about why he believed that information is held, the complainant has only indicated that it is from someone at a high rank. Were he able to provide a name, or more specific date, then there is a small chance that a more detailed search may reveal something, perhaps by focusing on either its author or the 'high ranking' party concerned. However, without this the MPS is only able to undertake searches based on the details which have been provided. Furthermore, based on the explanations provided above, there is obviously a very real possibility that any report which may have been written has since been destroyed.
21. The Commissioner considers that the MPS contacted the relevant parties to consider whether or not any information was held in respect of the request and used appropriate search criteria. Based on the information provided to her she is satisfied that, on the balance of probabilities, no recorded information within the scope of the request is held. She is therefore satisfied that the MPS has complied with the requirements of section 1 of the FOIA in this case.

Right of appeal

22. 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

23. 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.
24. 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

Carolyn Howes
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