

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 4 October 2022

**Public Authority:** Chief Constable West Yorkshire Police  
**Address:** PO Box 9  
Laburnum Road  
Wakefield  
West Yorkshire  
WF1 3QP

#### Decision (including any steps ordered)

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1. The complainant has requested from West Yorkshire Police ("WYP") information relating to financial expenditure, staff and codenames allocated to a specific murder investigation.
2. The Commissioner's decision is that, on the balance of probabilities, WYP has released all the information that it holds.
3. The Commissioner does not require WYP to take any steps.

#### Request and response

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4. On 16 June 2021, the complainant wrote to WYP and requested information in the following terms:

"Operation [Redacted] is the codename given by WYP to the investigation into the murder of [name redacted] in [Redacted], 1997.

Please disclose the following information by way of the Freedom of Information Act, 2000:

1. For each of the financial years ending 31st March, from 2015 until 2021, please give the expenditure allocated to this investigation.
2. Please give the name and rank of the Gold Commanders who provided oversight on this murder investigation from 1997 until the present day (16th June, 2021), together with the period, in years, they served in the role (for example, [name redacted] 1997-2003).

3. It is accepted that in 1997 operational codenames were not routinely allocated and, if there was one generated at the time of the murder, it may have been different to [Redacted] (which is probably the one allocated to the cold case review). If there are other codenames, please disclose those also, together with applicable dates.”
5. WYP responded on 13 July 2021 with a refusal notice. It stated that it could neither confirm nor deny that it held any information regarding the [name redacted] murder investigation by virtue of section 30(3) - investigations and section 40(5) – personal information, of FOIA.
6. Following an internal review, WYP wrote to the complainant on 10 August 2021. WYP revised its position and stated that it holds no information in relation to point 1 of the information request. It answered points 2 and 3 of the information request in full.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 12 October 2021 to complain about the way their request for information had been handled. The complainant said that the complaint issue was “self-evident” and provided a link to their complaint on What Do They Know in which they express their dissatisfaction on WYP’s response to their request.
8. The Commissioner considers that the scope of this case is to determine, on the balance of probabilities, if WYP holds any further information within the scope of the request.

### **Reasons for decision**

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9. Section 1(1) of the FOIA states that:  
  
“Any person making a request for information to a public authority is entitled-  
(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and  
(b) if that is the case, to have that information communicated to him.”
10. In scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal (Information Rights) decisions, applies the civil standard of the balance of probabilities.
11. For clarity, the Commissioner is not expected to prove categorically whether the information is held, he is only required to make a

judgement on whether the information is held on the civil standard of the balance of probabilities.

12. In deciding where the balance of probabilities lies, the Commissioner will consider the complainant's evidence and arguments. He will also consider, where applicable, the searches carried out by the public authority, in terms of the extent of the searches, the quality of the searches, their thoroughness and the results the searches yielded. In addition, he will consider any other information or explanation offered by the public authority which is relevant to his determination.
13. The Commissioner's role is not to consider whether a public authority should hold information that has been requested but whether, on the balance of probabilities, it does or does not hold it.
14. When, as in this case, the Commissioner receives a complaint that a public authority has not disclosed some or all of the information that a complainant believes it holds, it is seldom possible to prove with absolute certainty that the public authority holds no further relevant information.
15. In his guidance, the Commissioner recognises that FOIA only applies to information that a public authority already holds in recorded form at the time of a request.
16. In other words, in order to determine such complaints, the Commissioner must decide whether on the balance of probabilities a public authority holds any - or additional - information which falls within the scope of the request (or was held at the time of the request).

#### The complainant's position

17. The complainant requested that WYP reconsider its internal review response. They claimed that there is significant tension between an account provided by a former qualified Senior Investigating Officer employed by WYP, and the response that WYP provided in their internal review with regards to point 1 of the information request.
18. The Commissioner reached out to the complainant and asked the complainant to provide the account of the former WYP employee and evidence of their claim that information is available elsewhere. The complainant did not respond to the Commissioner.

#### West Yorkshire Police's position

19. In relation to point 1 of the complainant's information request, WYP states it does not hold information that is relevant. WYP has explained that it has a department called the Homicide and Major Enquiry Team who oversee and investigate numerous major crimes. It advised that

this team has a wide remit and covers more than major crimes and homicides as they manage historic cases as well. It also explained that its resources are flexed between different cases and different operations depending on the demand at the time and therefore, expenditure and allocation of resources to individual cases is not recorded.

20. With regards to point 2 of the complainant's information request, WYP reiterated that they hold no information on the matter. WYP explained that Gold Commanders are not ordinarily appointed to provide oversight on murder investigations, but that Senior Investigating Officers are. WYP explained that, had a Gold Commander been assigned to this investigation a record would have been made, and such a record does not exist.
21. WYP explained to the Commissioner that it had conducted a final investigation into its answer to point 3 of the complainant's information request. It stated that after an extensive search by four different members of staff of both electronic and paper records no further information was found. There were key-word searches for: "district name" and "operation name" which returned no results.
22. WYP explained that all documents relating to the case in question were titled "[name redacted] Murder Investigation". Paper records were searched, and no alternative operational name was identified. It advised that the Police Inspector also approached staff who worked on the case at the time to inquire about alternative names, but none were identified.
23. WYP advised that if this information was held it would expect it to have been contained within the paper documents or electronic records that were searched. It explained to the Commissioner that it is in WYP's interest, as well as their obligation, to hold information relating to undetected murders in order for them to carry out their statutory duty to prevent and detect crime.
24. WYP explained that the searches that they conducted were done by four staff members and were in excess of 18 hours.
25. The Commissioner also reached out to WYP to ask if they were aware of the ex-employee who may have provided a different account or whether the information was available elsewhere. WYP responded and claimed that, following another conversation with the Homicide and Major Enquiry Team they are not aware of the former Senior Investigation Officer that the complainant is referring to. WYP also claim that they are unaware of the information "available elsewhere" that the complainant refers to.

The Commissioner's decision

26. In reaching his decision in this case, the Commissioner has taken into account the actual wording of the questions that comprise the request for information. He has also taken account of the views put forward by the complainant and the explanations provided by WYP.
27. The Commissioner recognises that the complainant believes that WYP holds more information than it has already disclosed, From the information that has been provided by WYP, the Commissioner is satisfied that it carried out sufficient and reasonable searches for the information and was unable to locate any additional information.
28. The Commissioner also notes that he gave the complainant an opportunity to provide evidence to support his comments in relation to the different account given by the former WYP employee and the information that the complainant claimed was available elsewhere. However the complainant did not respond to the Commissioner. Therefore, the Commissioner was unable to consider this claim further.
29. WYP explained in detail the searches that it conducted, and the Commissioner is satisfied that WYP has supplied the complainant with all the information that they hold relative to the complainant's information request.
30. On this basis, the Commissioner has concluded that, on the balance of probabilities, the requested information is not held.

## Right of appeal

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31. 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: 0203 936 8963  
Fax: 0870 739 5836  
Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)  
Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

32. 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.
33. 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 .....**

**Claire Churchill**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**