| Police Scotland logo | Freedom of Information ResponseOur reference: FOI 23-2643Responded to: 11 December 2023 |
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Your recent request for information is replicated below, together with our response.

## I refer to the above and confirm I seek information pertaining to intelligence sources.

## from 2000-2005 what was the budget paid to informants by Lothian Borders Police, now part of Police Scotland?

## from 200-5 what was the budget paid to informants by Dalkieth Police (LBP)

## How many Police informants were on the payroll at LBP 2000-5?

I would first of all advise you that the use of Covert Human Intelligence Sources (CHIS) by the Police is a long-established technique and regarded as a very effective investigatory tool. CHIS can provide unrivalled access to crime groups and play an integral role in the gathering of intelligence used to combat and reduce crime. The results achieved from intelligence greatly outweigh the cost of rewards paid to CHIS.

In response to your questions, with considerations regarding the legacy Lothian and Borders policing area, and specifically the Dalkeith policing team, I have considered your request for information, in terms of the Freedom of Information (Scotland) Act 2002, I am refusing to confirm or deny whether the information sought exists or is held by Police Scotland in terms of section 18 of the Act.

Section 18 applies where the following two conditions are met:

It would be contrary to the public interest to reveal whether the information is held.

If the information was held, it would be exempt from disclosure in terms of one or more of the exemptions set out in sections 28 to 35, 38, 39(1) or 41 of the Act.

If the information requested was held, I consider that it would be exempt from disclosure in terms of the following exemptions:

• Section 31(1) - National Security and Defence

• Section 34(1)(b) - Investigations

• Section 35(1)(a)&(b) - Law enforcement

**Section 31(1) - National Security and Defence**

Information is exempt information if it is required for purpose of safeguarding national security.

Disclosure of this information would undermine any ongoing or future operations to protect the security or infrastructure of the United Kingdom and increase the risk of harm to the public.

The public entrust the Police Service to make appropriate decisions regarding their safety and protection and the only way of reducing risk is to be cautious with what is placed into the public domain.

This is a non-absolute exemption and requires the application of the Public Interest Test.

**Section 34(1)(b) – Investigations**

Section 34(1)(b) of the Act provides an absolute exemption from disclosure in that information is exempt information if it has at any time been held by Police Scotland for the purposes of an investigation which may lead to a decision to make a report to the Procurator Fiscal to enable it to be determined whether criminal proceedings should be instituted.

**Section 35(1)(a)&(b) - Law enforcement**

Information is exempt information if its disclosure under this Act would or would be likely to prejudice substantially the prevention or detection of crime and the apprehension or prosecution of offenders.

Disclosure of the requested information would impact on the process of investigating this case. One of the main purposes of the Police Service is to prevent crime but to release this information would be contrary to that purpose.

Disclosure of data on the number of CHIS, even historic data builds a picture of policing activity that would be invaluable to offenders.

Disclosure would present an increased risk to those operating as CHIS as it could lead to members of organised crime groups seeking to identify any CHIS who may be reporting their activities.

This is a non-absolute exemption and requires the application of the public interest test.

**Public interest test**

I believe that it would be contrary to the public interest to reveal whether the information requested by you is held by Police Scotland. The considerations, for and against disclosing whether the information is held are as follows:

Considerations for disclosing the information held include that the public are entitled to know how public funds are spent. Disclosing whether information is held would indicate the extent of Police Scotland’s historic use of CHIS in the legacy Lothian and Borders area.

Police Scotland’s covert activities have fuelled the public interest in how often certain tactics are deployed. Disclosing whether information is held would therefore serve to better inform the public of policing activities.

However, considerations against disclosing if information was held, include, if disclosing whether the information held would prejudice the investigative process, particularly were it the case that no information was held for a particular time period which would send a clear indication to anyone involved in criminality that certain tactics had not been used.

Disclosing whether information is held would present an increased risk to those operating in CHIS operations. Knowledge of the extent of use of this tactic, may lead to members of organised crime groups seeking to identify any CHIS who may be reporting within their crime group. This increases the risk to individuals, whether there are CHIS reporting on that group or not. This is particularly relevant regarding a geographical breakdown which would allow spikes to be identified that could in turn be associated to a particular serious crime and compromise a CHIS operation.

Further, where significant arrests and recoveries have been made from a CHIS-lead operation then it would be conceivable that Organised Crime Groups could effectively ascertain that it was CHIS information that lead to the police action, due to any significant spike in CHIS payments. From there they might assume, rightly or wrongly, that a particular individual was providing information to the police, putting this person at risk of harm.

The Investigative Powers Communications Office (IPCO) has a statutory responsibility for overseeing the use of CHIS and other covert policing techniques, by way of a regular inspection programme. The use of informants by the police service is well known and is governed by the Regulation of Investigatory Powers Act, 2000 (RIPA) and the Regulation of Investigatory Powers (Scotland) Act, 2000 (RIPSA). In these ways it can be said that the public interest regarding scrutiny of CHIS is already being met.

CHIS (regardless of their motivation) provide information at personal risk to themselves and their families. As previous cases have shown, where a CHIS is identified it can result in substantial physical harm, or mental trauma resulting from the threat of physical harm. This problem is particularly acute in cases relating to serious crime and terrorism where the threat against individuals is substantial.

Modern-day policing is intelligence led, and intelligence changes on a day-by-day basis. Any information disclosed, which identifies the focus of this activity, would enable those engaged in criminal activity to have an advantage over police. Information that undermines the operational integrity of these activities will adversely affect public safety and further to this, will have a negative impact on current and future police investigations and operations in this highly sensitive area.

On balance, disclosing whether information is held would compromise the future law enforcement role of the force, the safety of individuals and put the public at risk. It is therefore considered that it would be contrary to the public interest to disclose whether information is held.

If you require any further assistance, please contact us quoting the reference above.

You can request a review of this response within the next 40 working days by email or by letter (Information Management - FOI, Police Scotland, Clyde Gateway, 2 French Street, Dalmarnock, G40 4EH). Requests must include the reason for your dissatisfaction.

If you remain dissatisfied following our review response, you can appeal to the Office of the Scottish Information Commissioner (OSIC) within 6 months - [online](http://www.itspublicknowledge.info/Appeal), by email or by letter (OSIC, Kinburn Castle, Doubledykes Road, St Andrews, KY16 9DS).

Following an OSIC appeal, you can appeal to the Court of Session on a point of law only.

This response will be added to our [Disclosure Log](http://www.scotland.police.uk/access-to-information/freedom-of-information/disclosure-log) in seven days' time.

Every effort has been taken to ensure our response is as accessible as possible. If you require this response to be provided in an alternative format, please let us know.