

Date: 19th November 2020

Our Reference: FOIA-2020-131

RE: Your request for information under the Freedom of Information Act 2000 (“FOIA 2000”)

I am writing regarding your email dated 5th November 2020 in which you requested information regarding Overseas Security and Justice Assistance (OSJA) human rights impact risk assessments (HRRAs) with regard to the Kenyan Anti-Terror Police Unit (ATPU), as below:

1. Since 01/Jan/2015, please state the (a) number of occasions, and (b) dates on which your department undertook Overseas Security and Justice Assistance (OSJA) human rights impact risk assessments (HRRAs), prior to giving assistance to the Kenyan Anti-Terror Police Unit (ATPU).
2. If your department has not undertaken any OSJA HRRAs for assistance the ATPU during the above period, please state the last date that it did so.
3. And if your department has *not* undertaken any OSJA HRRAs for assistance to the ATPU at all, please specify the government agency whose OSJA HRRAs your department relies upon in order to approve assistance to the ATPU.

Decision

I can confirm that the College of Policing holds information relevant to your request however some of the information is to be withheld because a number of exemptions apply:

- Section 27 – International Relations
- Section 31 – Law Enforcement
- Section 38 – Health & Safety

When a request for information is made under FOIA 2000, a public authority has a general duty under section 1(1) of the Act to inform an applicant whether the requested information is held. There is then a

general obligation to communicate that information to the applicant. If a public authority decides that the information should not be disclosed because an exemption applies, it must, under section 17(1) cite the appropriate section or exemption of the Act and provide an explanation for relying upon it.

It is important to note that a freedom of information request is not a private transaction. Both the request itself and any information disclosed are considered suitable for open publication, that is, once access to information is granted to one person under the legislation, it is then considered public information and must be communicated to any individual should a request be received.

With this in mind, we are able to provide you with the following information:

Since the 01/Jan/2015 the College have rased no Overseas Security and Justice Assistance Human Rights Impact Assessments for assistance in connection with the Kenyan Anti-Terror Police Unit.

The College have not raised an Overseas Security and Justice Assistance Human Rights Impact Assessments for assistance in connection with the Kenyan Anti-Terror Police Unit at any time since the inception of the College.

Additional context about our international work can be found on our external website here:

<https://www.college.police.uk/What-we-do/Learning/International-Academy/Pages/International-FAQ.aspx>

Having carefully considered your request, we are unable to provide any further detail because a number of exemptions apply, namely, section 27(1)(a), (c) and (d) (International Relations), section 31(1)(a) (Law Enforcement) and section 38(1)(b) (Health & Safety).

The above exemptions require me to consider the prejudice or harm that would, or would be likely, to result from disclosure. I must then go on to consider the public interest test, this requires a consideration of the arguments on both sides as to whether the public interest in disclosure is outweighed by any harm that disclosure may cause. The arguments in relation to prejudice/harm and the public interest test are inter-dependent and so I have amalgamated them under each exemption paragraph below.

Section 27 – International Relations

(1) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice—

(a) relations between the United Kingdom and any other State,

(b)

(c) the interests of the United Kingdom abroad, or

(d) the promotion or protection by the United Kingdom of its interests abroad.

Section 27(1) (a), (c) and (d) are relevant to your request. The College accepts that releasing detailed information about our Impact Assessments and our International assistance around the world may be of interest to the general public. We agree that to disclose this information would bring greater transparency and aid the public in being able to see the nature of the work we do and the way in which we have supported international policing. It would also help to provide more detail on the ways in which the College is able to generate additional revenue to the grant-in aid received from the Home Office. Additionally, it would also provide reassurance that the College is sharing best practice from the UK with other police forces around the world. This international sharing of knowledge contributes to tackling crime globally which, in turn, is likely to strengthen public perceptions of personal safety.

However, section 27(1) (a), (c) and (d) also recognise that the effective conduct of international relations is reliant upon an open dialogue between the College and its international clients, partners and other stakeholders in maintaining the trust and confidence of those with we choose to work with. If we fail to do so, the interests of the United Kingdom abroad may be adversely affected. Providing detail on how and what training we provide to particular countries and regions (over and above the broader information published on our website) could potentially damage the bilateral relationship between the UK and our international clients. This would significantly reduce our ability to promote UK interests abroad and may potentially affect the relationships we have with those clients, as well as any prospective clients that may wish to work with us in the future.

The College is committed to openness and transparency and we accept that we have a duty to share detail about our work, where we are able to do so. With this in mind, over recent years, our International Faculty have published considerable information via our external website which you can access via the link provided earlier in this letter.

You will see that we have listed the countries we work with, highlighted the broad areas of our international work coupled with the overall income generated and provided information about the international leadership courses that we offer here in the UK. We are committed to publishing relevant information, wherever we can, and where this would not jeopardise our relations with other states or affect our ability to protect or promote the UK's interests abroad.

We are also of the view that the release all of the information you have requested might contribute to the 'mosaic' effect. This can occur where the information you are seeking is paired with additional information already in the public domain. This may result in an increase in the likelihood of harm resulting if the disclosure takes place. Some of the information you have requested may, at first glance, seem fairly unremarkable, however we have to consider what information may have been released in the past, what information partner agencies may have released and any other information that might be available in the public domain. The request cannot be taken in isolation and it is right to consider how the totality of any information might fit together.

On balance, we consider that the harm of disclosure and the public interest in withholding the information outweighs the public interest in disclosing the information to you.

Section 31(1)(a) – Law Enforcement

As a publicly funded body and from an ethical perspective, the College accepts it has a duty to make appropriate information available to the public wherever possible. We appreciate that there is a public interest in the nature of the training provided by the College to our international clients and our International Faculty publish information, wherever possible, in order to better inform the public about the work that we do. Additionally, we appreciate that spending of public money and a public authority's ability to generate income, are matters of strong public interest.

However, the College must also consider the wider impact of disclosing specific detail about our international training. By the very nature of our work, the disclosure of the information requested carries the potential risk of highlighting areas of weakness within a country or police force. The possible disclosure of law enforcement capabilities, or lack thereof, in certain countries may have a negative impact on law enforcement operations, both in the UK and abroad. This in turn could increase the risk to the safety of the public and indeed law enforcement personnel in those countries with which we engage. Disclosure could hinder the effective prevention and detection of crime as it has the potential to reveal gaps in the capabilities within those countries. Disclosure of information that undermines the operational integrity of law enforcement capabilities is highly likely to have an adverse impact on public safety and a negative effect on law enforcement generally. This risk to public safety cannot be said to be in the public interest.

As stated above, the public interest test is a consideration of whether the community benefit of possession of the information outweighs the potential harm. It is not an evaluation of what interests the public. On weighing up the competing interests, I consider that the public interest test favours withholding any further detail of the requested information.

Section 38(1) (b) – Health & Safety

This exemption falls to be considered where there is a risk of danger to any individual.

We accept for the reasons outlined above, there is a strong public interest in providing information about our international training. However, it is our view that revealing the totality of the information you have requested may reveal weaknesses in the law enforcement capabilities of certain countries. These weaknesses could then be exploited by criminals, which potentially presents a risk to the public within those countries, along with law enforcement personnel. On balance, the risk of undermining international law enforcement capabilities and affecting public safety cannot be mitigated by the public interest in disclosure of the requested information.

Section 23(5) – Information supplied by, or relating to, bodies dealing with security matters

Section 24(2) – National security

Additionally, the College of Policing can neither confirm nor deny whether the above information represents all the information held that would meet the terms of your request, as the duty to comply with section 1(1)(a) of the FoIA 2000 does not apply by virtue of section 23(5) and section 24(2). Under s23(5) the duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would involve the disclosure of any information (whether or not already recorded) which was directly or indirectly supplied to the public authority by, or relates to, any of the bodies specified in subsection (3). This is an absolute exemption and a public interest test is not required.

Section 24(2) is a qualified exemption and as such there is a requirement to evidence any harm in confirming or denying that any other information is held as well as considering the public interest. We appreciate the importance of the public being informed on how public money is being spent and how public authorities conduct their activities and generate their income. Confirming whether any other information regarding the provision of training to international states is held would increase public confidence and allow for better informed public debate.

However, as outlined earlier in this letter, disclosure under the FoIA 2000 is a disclosure to the world at large. Therefore, disclosure of the information, if held, runs the risk of providing criminals with information, that when used on its own or with other information is likely to have an undesirable effect on the national security of the states concerned and the UK. This would in turn, have an impact on the ability of these states and the UK to protect itself from criminality and increases the risk to the safety of its citizens. It is also likely to have an adverse effect on law enforcement operations, both in the UK and abroad. Confirming or denying whether any other information is held would have the effect of making security measures in international states less effective since it may highlight individual vulnerabilities in those states. It would also have the effect of making security measures in the UK less effective as international police forces may be reluctant to share information and intelligence in order to combat threats from criminals.

To the extent that section 24(2) applies, the College of Policing has determined that in all the circumstances, the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in confirming whether or not any other information is held. I can therefore neither confirm nor deny whether any other information relevant to your request is held.

Your rights are provided at **Appendix A**.

Yours sincerely,

Abi Robertson | Legal Services Manager
Information Management and Legal Team
College of Policing

Email: FOI@college.pnn.police.uk

Website: www.college.police.uk

Appendix A

Rights

If you are dissatisfied with the handling procedures or the decision of the College of Policing made under the Freedom of Information Act 2000 (the Act) regarding access to information you can request that the decision is reviewed internally.

Internal review requests should be made in writing, within **forty (40) working days** from the date of the refusal notice, and addressed to: FOI team, Central House, Beckwith Knowle, Otley Road, Harrogate, North Yorkshire, HG3 1UF or email: FOI@college.pnn.police.uk

In all possible circumstances the College of Policing will aim to respond to your request for internal review within **20 working days**.

The Information Commissioner

If, after lodging an internal review request with the College of Policing you are still dissatisfied with the decision you may make application 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 <https://ico.org.uk/for-the-public/official-information/>.

Alternatively, write to:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

Phone: 0303 123 1113