



Home Office

Direct Communications Unit

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dmery@acm.org

Mr David Mery

Reference: T4988/9

Dear Mr Mery,

Thank you for your e-mail of 18/03/2009 at 7:34:21 PM requesting details of memos, minutes of meetings, correspondence and various other documents describing the involvement of the Association of Chief Police Officers' Criminal Records Office (ACRO) in dealing with the National DNA Database (NDNAD) over time, and when the scope of ACRO's involvement changed or increased.

I can confirm that the Home Office has engaged with ACRO on the consideration of implementing the judgment issued by the European Court of Human Rights on 4 December 2008 in the case of S and Marper. After careful consideration, I am unable to provide you with this information because it is considered that the information is exempt from disclosure by virtue of section 35 (formulation or development of government policy) of the Freedom of Information Act. The information we are withholding under section 35 covers advice and policy discussions between officials, as well as communications between Ministers on policy relating to the retention of DNA profiles and samples.

I have completed a public interest balancing test which has been outlined in Annex A.

The Association of Chief Police Officers (ACPO) may be able to provide you with a response to your enquiry. This is because they were primarily involved with developing the NDNAD retention guidance and the guidance on the exceptional case procedure. Please send your enquiry to:

*The Association of Chief Police Officers of England, Wales and Northern Ireland
25 Victoria Street
London SW1 OEX.*

Further information on ACPO can be found on the web link below
<http://www.acpo.police.uk/policies.asp>

If you are dissatisfied with this response you may request an independent internal review of our handling of your request by submitting your complaint within two months to the address below quoting reference 11658.

Information Rights Team
Information and Record Management Service
Home Office
4th Floor, Seacole Building
2 Marsham Street
London
SW1P 4DF
Email: info.access@homeoffice.gsi.gov.uk

During the independent review the department's handling of your information request will be reassessed by staff who were not involved in providing you with this response. Should you remain dissatisfied after this internal review, you will have a right of complaint to the Information Commissioner as established by section 50 of the Freedom of Information Act.

Yours sincerely

Ami Badmus
Policing Powers and Protection Unit

Public Interest Test

Public interest in favour of disclosure:

- The information we have chosen to withhold could promote general public interest in openness and transparency in policy making, formulation and discussion which may lead to increased accountability, debate, trust and engagement between the public and the government.
- The information we have chosen to withhold could provide the general public with knowledge of how information is used as the basis for formulating policy decisions and an oversight of policy development.

Public interest against disclosure:

- Ministers are carefully considering their response to the European Court of Human Rights judgment in S and Marper and the information requested is relevant to that consideration. Under section 35, if advice was routinely made public there is a risk that officials could come under political or public pressure not to challenge ideas in the formulation of policy, thus leading to poorer decision making. Ministers might feel inhibited from discussing all the options and risks available if they felt that their opinions were routinely published, this could lead to a less effective system of government.

On balance, and given the sensitivity of the information and the ongoing discussions between various bodies which will create a new policy in future, I am satisfied that the argument for withholding the information firmly outweigh those in favour of release at this time.