



Freedom of Information request 24-14

I am writing to request information under the Freedom of Information Act about the numbers of people stopped at UK borders using Schedule 7 of the Terrorism Act 2000.

Please provide me with your records since 2001 concerning:

I. The number of people stopped at any relevant UK ports and airports under your remit using Schedule 7 of the

Terrorism Act 2000

II. Figures regarding the number of these people who were subsequently:

a) Arrested

b) Charged

c) Released

III. A record of the reason these people were stopped

RESPONSE

Section 1 of the Freedom of Information Act 2000 (FOIA) places two duties on public authorities. Unless exemptions apply, the first duty at Section 1(1)(a) is to confirm or deny whether the information specified in a request is held. The second duty at Section 1(1)(b) is to disclose information that has been confirmed as being held. Where exemptions are relied upon Section 17 of the FOIA requires that we provide the applicant with a notice which:

a) states that fact

b) specifies the exemption(s) in question and

c) states (if that would not otherwise be apparent) why the exemption applies.

In relation to this particular request, the following exemptions apply:

Section 24(1) – National Security

Section 31(1) – Law Enforcement

Overall harm

The release of force or port specific Schedule 7 examination data would be prejudicial and detrimental to the overall effectiveness of preventing and deterring those intent on terrorism from entering the UK. The release of force-by-force data would allow the inference of port activity and identify perceived vulnerable points of entry to the UK. Those wishing to enter the UK would be able to analyse this data and identify ports where they believe it is less likely that they would be subject to a Schedule 7 examination.

The provisions of S24(1) and S31(1) are inextricably linked in this case. Schedule 7 is only used for the purposes of countering terrorism as part of CT policing activity in support of the Government's Counter Terrorism Strategy, CONTEST. The release of this information would have a direct impact on the capability and effectiveness of national counter terrorism policing and the successful delivery of CONTEST policing objectives. There is an inherent and fundamental link between the need to safeguard matters relating to national security and the potential to prejudice the ability of the police service to prevent and detect crime, and to apprehend and prosecute offenders.

The *Ports Toolkit* also confirms:

The police service does not release force or port specific figures regarding Schedule 7 Terrorism Act examinations.

This is because Schedule 7 Terrorism Act data could, if combined with other available data, provide a detailed picture of CT coverage at borders across the UK. Therefore, if the information in question could be used by individuals to avoid detection when entering the UK or to mitigate the likelihood of being subject to an examination under Schedule 7, it is prejudicing the ability of the police to detect and apprehend those individuals, thereby hampering the ability of the police to fulfil its role.

National figures are available here:

- The Home Office CT statistics publication for 2012-2013 is here - <https://www.gov.uk/government/publications/operation-of-police-powers-under-the-terrorism-act-2000-2012-to-2013/operation-of-police-powers-under-the-terrorism-act-2000-and-subsequent-legislation-arrests-outcomes-and-stop-and-searches-great-britain-2012-to-20>

Additionally, a detailed analysis of Schedule 7 examination data, including the length of examinations, can be found in Section 10 of the *David Anderson Q.C. Report - REPORT OF THE INDEPENDENT REVIEWER ON THE OPERATION OF THE TERRORISM ACT 2000 AND PART 1 OF THE TERRORISM ACT 2006* of July 2013 -

https://terrorismlegislationreviewer.independent.gov.uk/wp-content/uploads/2013/07/Report-on-the-Terrorism-Acts-in-2012-FINAL_WEB1.pdf

In regards to part (2) of the request, we believe the release of this data, if available, would also depict force level activity. However, it is not possible to track-back to say what conviction derived from any particular Schedule 7 examination with any degree of accuracy. Charges may not be made for some time after an examination as terrorism investigations are typically long running and draw on a wide range of information which may include information derived from examinations under Schedule 7. In other words,

an examination may not directly result in a charge or an arrest at the time of the examination itself.

Furthermore, a CT arrest at a port may not be directly linked with a schedule 7 examination. This is also touched on in the David Anderson report:

Arrests

10.18. Information collated by ACPO indicates that, as a result of Schedule 7 examinations, there were 31 terrorism-related arrests at ports in 2010/11 and 24 terrorism-related arrests at ports in 2011/12. This means that only 0.04% and 0.03% respectively of those examined under Schedule 7 were arrested: a minuscule proportion when compared with the arrest rates after exercise of stop and search powers, including under TA 2000 section 43.

10.19. These striking figures underline the point that terrorists make up an infinitesimal proportion of the travelling public. It is important for police to recognise that in the absence of clear incriminating intelligence, the overwhelming likelihood is that any person stopped will not be a terrorist, regardless of their ethnicity.

Finally, in regards to part (3) of the request:

Under Schedule 7 of TACT, individual examining officers can examine a person at a port area who is entering or leaving, or travelling by aircraft within, Great Britain. Depending on individual circumstances, an examination may consist of basic questioning, a search of property and/or a period of detention of up to 9 hours while investigations take place. Terrorists need to travel in order to plan, prepare and commit their crimes. The legislation is used by police officers to determine whether a person appears to be (or has been) concerned in terrorism.

Police officers at ports play a key role in countering the current terrorist threat and have powers under Schedule 7 of the Terrorism Act 2000 to stop, question, search and if necessary, detain people entering or leaving the UK. This also applies to those travelling within the UK on board a ship or aircraft.

Factors favouring disclosure for S24

The information simply relates to national security and disclosure would not actually harm it. The public are entitled to know how public funds are spent and by disclosing this information the public would be able to see where public money is being spent and know that forces are doing as much as they can to combat terrorism.

Factors The factors favouring non-disclosure for S24

By disclosing this information would render Security measures less effective. This would lead to the compromise of ongoing or future operations to protect the security or infrastructure of the UK. The risk of harm to the public would be increased if the location of vulnerable areas of the UK were made public as this would provide opportunity for terrorist planning. Ongoing or future operations to protect the security or infrastructure of

the UK would be compromised as terrorists could map across the country the level of counter-terrorist activity, giving them the knowledge of force's individual capabilities.

The factors favouring disclosure for S31

By disclosing the information the public would see where public funds are being spent and would be able to take steps to protect themselves and their families. Better public awareness may reduce crime or lead to more information from the public as they would be more observant in reporting suspicious activity.

Factors favouring non-disclosure for S31

By disclosing the information law enforcement tactics would be compromised which would hinder the prevention and detection of terrorist crime. More crime would be committed because the terrorists would know which forces had less CT capability and capacity and individuals would therefore be placed at higher risk. A fear of crime would be realised because if the terrorists identified 'softer' border entry points, they would target and exploit these areas and the public would be in fear of more terrorist activity occurring. There would be an impact on police resources because if the number of Schedule 7 stops was disclosed per force, the more vulnerable forces may need to increase their resources to reassure and protect the community.

Balance test

The security of the country is of paramount importance and the Police service will not divulge information if to do so would place the safety of an individual at risk or undermine National Security. The Police Service's overriding priority is to keep the public safe by working together with all our communities to defeat terrorism.

Whilst there is a public interest in the transparency of policing operations and in this case providing assurance that the police service is appropriately and effectively engaging with the threat posed by a terrorist attack, there is a very strong public interest in safeguarding both national security and the integrity of police investigations and operations in the highly sensitive area of terrorism.

As much as there is public interest in knowing that policing activity is appropriate and balanced in matters of national security this will only be overridden in exceptional circumstances. Schedule 7 and other CT measures are high-profile sensitive issues are of intelligence value to the terrorist and therefore it is our opinion that for these issues the balancing test for disclosing the information requested is not made out.