

## **“The house always wins” — Empirical reflections on UK Freedom of Information legislation for policing research**

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### **ABSTRACT**

Freedom of information legislation (FOIL) as a method for criminal justice research is relatively underexamined, notwithstanding its marketisation as an academic resource. This paper investigates the seldom-used technique in the context of policing research conducted with forty-five (45) forces in the United Kingdom. An examination of the instant study, previous research using the method, the challenges the researcher faced, and the overall merits of using FOIL, are supplemented by consideration of the general efficacy of the provisions in the jurisdiction. Despite improvements to accessibility, the principal issues plaguing the method continue to be non-responses, late responses, misunderstood requests leading to relaying of unwanted data, unlabelled and unsorted records, raw data without contextual information to make sense of it, and out-of-date information. Recommendations are afforded and contextualised to inform potential users of the nuances of FOIL, in what can be described as a work-in-progress rather than a reliable data collection mechanism.

**Keywords:** *Police Data Management, Criminal Justice, Research Methods, Freedom of Information, Policing Research*

### **INTRODUCTION**

In recent years, there has been a trend to allocate dedicated resources for records and information management at public sector institutions in the United Kingdom (Bertot et al., 2014). This has been evidenced by the re-evaluation of information systems at these organisations since the enactment of UK Freedom of Information legislation (UKFOIL). The UKFOIL system covers a wide range of criminal justice agencies, including the Home Office and the Ministry of Justice; the Crown Prosecution Service; all forty-three (43) police forces (England and Wales); respective forces in Scotland and Northern Ireland; state-run prisons; and the probation service (United Kingdom, 2000).

It is unclear to what extent academic researchers are making use of UKFOIL as a resource for data collection. The Ministry of Justice, which collates the data on Freedom of Information (FOIL) usage, does not categorise the requests and responses by information seeker. Apart from historians, researchers have traditionally made limited use of FOIL (Lee, 2001), although its use has increased in recent years (Clifton-Sprigg et al., 2020).

FOIL has proved useful for uncovering government waste, corruption, and public health matters (Halstuk & Chamberlin, 2006; Fink, 2018). It has been used for requests in research (Griffiths, 2010; Murray, 2012) spanning multiple fields (Lee, 2001; Walby & Larsen, 2012). And, while some works have investigated the value of FOIL as a research method (Lee, 2005), concerned academics have mainly concentrated on prospective negatives of FOIL use (Breathnach et al., 2011; Wilson, 2011).

However, FOIL's potential as a robust research utility on both a theoretical and practical level cannot be understated. Such requests can allow researchers to access previously unattainable data that can then be subjected to analysis (Vaughan, 1996, 2004, 2006). Theoretically, data obtained through FOIL symbolises a powerful instrument for democratising the research process. These documents can afford a distinctive take on reality, shedding light on otherwise unknown facets of state functions (Atkinson & Coffey, 2004).

Social scientists in the US have used FOIL in the following areas: (1) the involvement of academics with intelligence-gathering activities (Diamond, 1992); (2) the surveillance of social scientists by US security agencies (Keen, 1999); and, (3) government efforts to institute economic, cultural, and political supremacy over foreign countries (Calavita, 1992; Coleman & Seligman, 1988).

In the UK, FOIL usage has led to revelatory studies involving police staff mental health (Cartwright & Roach, 2021), terrorism-prevention measures (Atkinson et al., 2019), PFI decision-making processes of local authorities (Khadaroo, 2008); Ministry of Defence medical data (Seal, 2006), Department of Health documents on drug addiction policies (Mold & Berridge, 2007), and police crime data (Johnson & Hampson, 2015; Hutchings et al., 2006).

The increasing use of FOIL can be attributable to a multitude of emerging challenges concerning police governance and accountability that have recently escalated the priorities of policymakers and stakeholders worldwide (Walsh & Conway, 2011). Blair (1996) outlined the wider intent behind UKFOIL, touching on aspects such as the need for bringing UK politics up to date, keeping it in line with the aspirations of the British public, and delivering a more open, effective, and efficient government. Compliance with UKFOIL is, therefore, a matter of practical relevance, as opposed to merely an ideological one.

Notwithstanding the fictitious depictions that imagine the police function as round-the-clock patrols, gunfights, highspeed highway chases, and cases solved

by talented, eccentric loners, policing at its core remains an information handling profession (Ericson & Haggerty, 1997), with the organisation subject to UKFOIL (United Kingdom, 2000). The efficient management and usage of information have been crucial functions in crime prevention, reduction, and investigation, while the volume of data that is accumulated, stored, and disseminated as part of police work has remained significant (Luen & Al-Hawamdeh, 2001). In the past, working practices and the data generated from police activities were kept from public inspection. However, since 2005, forces in the UK have functioned with a new-found openness, where state bodies and the public demand for transparency, performance measurement and data disclosure are realised (Cooke & Sturges, 2009).

The rise of law enforcement agencies as efficient handlers of information that are more receptive to outside scrutiny can best be described as a work-in-progress. Gottschalk and Solli-Saether (2007, p. 47) suggested that occupational culture was “shaped by the socially relevant worlds of the occupation”. In organisations such as police forces, individuals are repeatedly exposed to public confrontation and risk, their decisions questioned, and frequently good deeds ignored (Burke et al., 2007). The result is an organisational culture that centres on concealment, self-preservation, violence/aggression, and the closing of ranks when under threat (Chibnall, 1979; Christensen & Crank, 2001).

Mawby (2002a, 2002b) found that the previously established culture of “tell them only what you must” had gradually shifted to “withhold what you must”, thus promoting accessibility between the Metropolitan Police and the public. This strategy of boosting transparency can be traced to the supposition that the media could be useful in crime fighting efforts, community engagement, and improving confidence in the police, while maintaining morale within organisational ranks (Ericson et al., 1989).

As a consequence of the enactment of UKFOIL, Readhead (2007) stated that police forces in England and Wales fielded more than 20,000 annual information requests, and that the volume of the same rose by around 50% between 2005 and 2007. Ten years later (between 2015 and 2016), the number doubled, with 45,415 FOI requests received across all monitored bodies with a timely response rate of 91% (Cabinet Office, 2016). The Department for Work and Pensions, Ministry of Defence, Ministry of Justice, and Home Office made up the four largest Departments of State in terms of the number of FOI requests for the third year in a row, demonstrating the significance of FOIL in state-run security organisations. Combined, they made up over half (53%) of FOI requests to Departments of State.

Legislation not specifically directed at police forces also contributed to their new-found openness. The Human Rights Act 1998 (United Kingdom, 1998a), the Public Interest Disclosure Act 1998 (United Kingdom, 1998b), and most significantly

the Freedom of Information Act 2000 (United Kingdom, 2000) all played a key role. Relevant policy schemes included the “Modernising Government” agenda of the Labour government, which concentrated on public sector reorganisation and improving state accountability (Parliament, 1999). It led to an agenda of police reform (Home Office, 2004), which attempted to establish “a more responsive police service with neighbourhood policing at its heart” and better police accountability.

Democratic societies’ need for accessible, responsive, and accountable law enforcement agencies is accentuated by a pronounced effort to demonstrate these qualities to the public. In the UK, an amalgamation of factors, including FOIL, has steadily strengthened a movement towards an ostentatious philosophy of openness and professionalised communication (Readhead, 2004). However, unrestricted transparency is far from reality. Police organisations, because of their intrinsic relationship to local politics and the media, and continuing questioning and litigation by members of the public, feel a compulsion to robustly defend themselves; frequently overstating their role and effectiveness in crime fighting, while railing against scrutiny (Rosenbaum, 2010). As a result, FOIL as a data collection method for sociological, criminological, and policing research requires scrutiny to test its viability and reliability in real-world applications in the research sphere.

This paper examines UKFOIL, specifically queries relating to officially held human resource and financial spending data within law enforcement organisations. FOIL as a research method is formulated with the awareness and understanding that complementary to its appropriateness to this subject matter, its operational integrity requires rigorous scrutiny. Opportunities to examine the dynamics of FOIL for social research, therefore, present more than an elementary insight into the operation of government. The value of such enquiries rests in the contribution to literature on the subject, particularly on the real-world triumphs and failures of the method. The paper elucidates on FOIL’s methodological potential in data gathering, past successes and challenges faced by its users by contextualising this information with the author’s findings. Through the evaluation of FOIL provisions in the jurisdiction for policing research, the paper informs stakeholders and prospective users of the challenges of the method and practicalities to consider before investing in it.

## PRE-REQUEST CONSIDERATIONS

The UKFOIL provisions should be of particular interest to the criminological researcher whose intended subjects/organisations are often data-rich, but who are reluctant to publicise the same. Data gathered using FOIL retains vast information access potential and social value despite its relatively limited use in academic research (Lee, 2001; Relyea, 1987). The provisions can facilitate access to data that

may not have been previously retrievable, at least without drawn-out negotiations with public bodies. However, regardless of FOIL (including UKFOIL) procedures becoming an increasingly opportune option for research, some often overlooked factors should be considered to assess the viability of the research method.

### **Ethics and confidentiality**

Access to publicly held data brings ethical and legal questions of confidentiality and security. Often the requested information concerns sensitive data about protected groups, and therefore restricting access in safe settings may be required. The Administrative Data Taskforce (ADT) report recommended using safe or secure data settings (UKADRN, 2012) when handling criminal justice data. The HM Revenue and Custom (HMRC) data lab affords access to tax records under controlled conditions. The Ministry of Justice (MoJ) data lab facilitates organisations working with offenders to have their data linked to the MoJ re-offending records. Elliot et al. (2013), in their research concerning new sources of data collection in the social sciences, found that only 26% of their survey respondents had used virtual safe settings to access and analyse state-produced data. Researcher cognisance of facilities offering safe settings such as the Secure Data Service, the HMRC's data lab and the Ministry of Justice data lab, is key if gatekeepers are reluctant to release information under FOIL for confidentiality and security but agree to grant access in a more controlled setting. Such awareness is important because FOI provisions tend to blur the lines between established understandings of primary and secondary research and by extension, ethical issues (Walby & Luscombe, 2018).

### **Awareness and training**

A lack of understanding of the types of information obtainable through FOIL, and the procedure to be followed are additional barriers to using the method. There can be a perception that relying on FOIL would jeopardise the researcher's relationship with the information-carrying bodies, risking future research access. There is also cynicism that institutions actively seek loopholes in the provisions where they do not want the information released (Yeager, 2006; Brown, 2009).

The issues that prominently feature can be addressed relatively auspiciously. The matter of a lack of awareness can be elucidated through raising education and guidance. Universities can offer training from a compliance perspective on how its administrative staff answer FOI requests, as well as providing coaching on how academics can effectively use the method to gather data for their own projects.

### **Gatekeepers and the walled garden**

The introduction of FOIL, though virtuous, has not eradicated the long-established cultures of secrecy in government and other public authorities. Research in other jurisdictions has demonstrated that there are often attempts to circumvent the new rights and attenuate them (Roberts, 2005). It featured in the development of FOIL in Canada, where measures designed to ensure that central government could effectively “handle” sensitive FOI requests, were put in place to reduce the damage to the state’s reputation (p. 2). Public institutions may arbitrarily rely on exemptions in the FOIL to refuse access, despite systems of internal reviews and appeals, which have the potential to protect against such refusals.

### **Information overload and data management strategies**

Examining organisational culture to gauge the extent and scope of available information and its accessibility for research, has sociological value (Wallace et al., 1999). These enquires often take the form of documentary analysis, where police forces provide raw data (such as numbers, facts, and figures), or content-based documents containing literature, descriptions, or conclusions.

Official documents and records may be a rich source of data for social research (Braithwaite, 1981). However, in many cases, the content of requests may relate to unpublished material, requiring retrieval through FOIL. Using internal documents may reduce reflexivity in research (Bryman, 2004), but may lead to sorting and interpretation problems, as any gathered data is often not drafted or arranged in a manner that fits the requester’s needs.

Often lengthy procedures pertaining to making sense of the unsorted and uncoded data are incidental when dealing with unpublished information (Lee, 2001). FOIL provisions do, however, allow researchers to shape requests for the information specifically sought (Savage & Hyde, 2014). This characteristic of FOIL makes any information gained through it more like primary material, as the information is retrieved through planned and directed queries. Leaks of often confidential public records, most prominently by such groups as Wikileaks, have raised questions and created discourse about governance and accountability. Claims by Wikileaks that the released data is original source material also raises questions about the nature and dynamics of official, documentary data (Curran & Gibson, 2013; Riedel, 2000). Such inquiries contextualise FOI requests and the data obtained through the exercise of the methodology in terms that social science researchers can understand and evaluate for their purposes. FOIL requests can also yield a large volume of data, especially if identical requests are sent to multiple public authorities (Morris et al., 1981). Therefore, formulating fit-for-purpose data management strategies is crucial in the research design.

### **REQUESTS**

Considering the above factors, FOIL applications were drafted, putting into place contingencies for any unforeseen results. The object of the requests was to gather information on the state of crime scene investigations and its practitioners in the UK.

Published records from official sources such as the Home Office (2015–20a) proved unhelpful in determining the number of crime scene investigators in the jurisdiction, or Home Office (2015–20b) for the finances specific to forensic science and crime scene investigations/investigators. The definitions in academic and practitioner literature on the nature and scope of crime scene work also did not assist in ascertaining the exact premise of the occupation (Ludwig et al., 2012).

UKFOIL was thus used to request crime scene practitioner job postings and/or advertisements from Human Resource (HR) departments of police forces in England, Wales, Northern Ireland, and Scotland. Financial information for crime scene work, laboratory forensic science and overall scientific support spending was also sought, along with staff numbers. All forces afford guidance about freedom of information and specifics on publication schemes, on force-specific websites, although the robustness and user-friendliness vary considerably. Definitions and elaborations of the terms used in the request were included to avoid misinterpretation. A total of forty-five (45) requests were made electronically, using the emails or website forms set out for UKFOIL purposes.

## RESULTS

Out of the forty-five (45) requests, thirty-five (35) provided at least one (1) advert/role profile. These profiles varied in detail but afforded scope to canvass the types of crime scene jobs the forces employed. The financial and staff data sought had more mixed responses.

There was usually a common disclaimer attached to replies from English forces that had refused at least some part of the request for information:

Due to the different methods of recording information across 43 forces, a specific response from one constabulary should not be seen as an indication of what information could be supplied (within cost) by another. Systems used for recording these figures are not generic, nor are the procedures used locally in capturing the data. For this reason, responses between forces may differ, and should not be used for comparative purposes.

### No response

Two English police forces (based in the North-West and South-West) did not respond to the FOI requests, and as such, were under statutory breach of their duties under the Freedom of Information Act 2000.

## Full refusals

The refusals used the exemption under Section 12(1) of the Freedom of Information Act 2000. Full refusals were from a further two forces in England. There was no such conduct from Wales, Scotland, or Northern Ireland, although limited data was provided from some forces.

A South-West England force refused because, despite them holding the relevant information, “the cost of compliance would exceed the cost limits under the Act which is currently set at £450 or 18 staff hours work”. They further clarified that as financial data was not “centrally recorded and would involve an extensive search of [their] records to find and collate...it would take considerably longer than 18 hours to retrieve the information”. The first two categories of records sought (job postings and staff numbers) were separate from the financial data requests but were not addressed at all in the refusal letter, and no information was provided.

The other, a North-East England force, sent a refusal based on similar grounds, adding that “numerous files would require retrieving and reading manually to ascertain if they are pertinent to [the] request and is estimated that this would take in excess of the appropriate time stipulated”.

## Partial information

There were also twenty-four (24) forces in England that provided partial financial and/or staff data, as well as Scotland (where the approached organisation was only developed in 2013) and Northern Ireland, while one force in South Wales did the same. The partial data was related to the requested information. The reasoning behind the refusals can be summarised under the following broad headers:

### Difficulty in retrieval of information

An East England police force declared that “the numerical data [presented in this response] is an un-audited snapshot of un-published data sourced from “live” systems and is subject to the interpretation of the original request by the individual extracting the data.” A London force refused by stating that it was “unable to supply the requested information... because the functions... are not conducted by one individual department, and it is not possible to isolate the costs according to the categories... requested.” One South-West England force stated that “unfortunately the Constabulary is unable to split these costs between the items specified...”

A West-Midlands force responded with the disclaimer that “this information [was] not held in a readily retrievable format”. No statutory provision was cited or availed for the refusal of the other information sought. It was explained that “this

information is not held...centrally or in an electronically searchable format as it covers different areas of work within different departments”.

A large regional force was also unable to provide the breakdown, stating that it was “unable to collate this data as it is not coded separately within [our] accounts”. One London police force provided a delayed response and subsequently sought an extension to the time allocated for response. The force provided “full disclosure” as per their own wording but were unable to provide the requested financial data.

### **Mislabelled or unsorted data**

Unlabelled figures were sent as a response by a Midlands (England) police force with no explanation or legend on how to decipher the information. Labelling issues were also used as a reason for partial information release by a force from the same region. Another force from the area provided partial data, explaining that its “accounts [were] not split down into the categories asked for” and it was “not able to break it down any further”.

Partial data for the financial spending request was provided by an East-Midlands (England) force, stating that it did not “have a specific costing code for laboratory work. In this instance costings are not coded individually on invoices by type of work but are under one costing code for the CSI Department”. There was also no data afforded for the request for financial spending specific to scientific support.

## **REFLECTIONS**

### **Lack of uniformity in data management practices**

Citing “a level of file disorganization matched only in some people’s attics,” Calavita (1992, p. 14) found that US Immigration and Naturalization Service (INS) records were “catalogued according to a variety of overlapping and unwieldy systems”. A similar conclusion can be reached about data management systems within police forces in the UK, and they should be at the forefront of researcher consideration when evaluating the use of FOIL.

There was no uniformity in the wording, the ambit of duties, rank and labelling of crime scene staff roles and responsibilities. None of the staff designation labels corresponded to staff numbers information or where, if anywhere, forensic science and crime scene investigation personnel were being included. This made it impossible to correlate between publicly available police staffing data released by the Home Office (2015-20a), and any forensic science/crime scene personnel data retrieved through FOIL requests. Some forces sent numbers that were headcount figures, while others gave full-time equivalent numbers. Headcount figures, therefore, needed to be separated from FTE. Four English forces did not participate,

and one provided partial information. The responses indicated a widespread and jurisdiction-wide discrepancy in how officially released staffing data was systemised. Personnel numbers were difficult to collate, as they were provided in various formats.

A telling note in bold letters on an FOI response from a Midlands force was far more revelatory than perhaps could have been imagined by the senders:

Please note that Police Forces in the United Kingdom are routinely required to provide crime statistics to government bodies and the recording criteria is set nationally. However, the systems used for recording these figures are not generic, nor are the procedures used locally in capturing the crime data.

### **Operating in bad faith**

Bureaucracy has several self-preserving characteristics, none of which is more important than protecting its public image (Lee et al., 2011). Inherently, bureaucrats are thus drawn to protect individual career opportunities and their future prospects. It can thus be understood why difficulties arise in carrying out independent research on questions that are controversial to state entities.

The total disregard for statutory obligations under FOIL and subsequent non-responses from the two English police departments (discussed earlier) are shoehorns for this category. Bad faith practices were also evident in a West-Midlands (England) force's reply, which contained three digital files, including the official response letter. All provided files were corrupted and could not be read on any operating system (Windows, Linux, or MacOS). A follow-up email was sent for copies of these files, but there was no reply. As the response letter was unavailable, no impressions, reasoning or explanatory information could be retrieved for presentation or analysis.

### **Arbitrary refusal**

One North-East (England) force failed to disclose any financial information, offering a "No information held" response. It was stated that the force did not hold any information on the figures spent on crime scene work, laboratory expenses, or the total costs incurred on scientific support during the six-year period sought.

### **Cost calculations**

Several English forces cited cost considerations as a basis for refusing requests under the provisions afforded to them by S.12 of UKFOIL. These were a major barrier to accessing FOIL provisions by Kingston et al. (2018) conducting research in the

same jurisdiction, demonstrating an ongoing problem and possible misuse of the statute by the data-holding organisations.

### **Unwanted data**

From the social science perspective, using FOIL to collect data has shared limitations to unobtrusive measures (Webb et al., 1966, 1981). These depend on what exists for the identification, collection, and retrieval (Lee, 2000) or how such data can be produced (Webb et al., 1981; Lee, 2001). However, these depend on individual data hubs cooperating with information requests.

Organisations also relay vast amounts of uncollated information that are only peripherally relevant to the FOI request. One South-East England force demonstrated the practice by providing an abundance of unlabelled financial data that was not requested and stating that it could not “satisfactorily split out the budget further...”.

A Northern (England) force refused to disclose financial information by stating that “as section 21 [of Freedom of Information Act 2000] is an absolute exemption there is no requirement for [the force] to conduct a public interest test”. The note was accompanied by a link to a Her Majesty’s Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) (previously HMIC) report, but this was already publicly available and did not assist in the inquiry – and was not sought or requested.

### **Out-of-date information**

Several forces provided role profiles with mentions of defunct organisations, such as the Forensic Science Service (FSS) and Council for the Registration of Forensic Practitioners (CRFP). This showed that role profiles had not been updated in quite some time, even though the requests for information was filed years after the organisations were shut down. This demonstrated a requirement for updating old profiles (Scenes of Crime Officer, and Crime Scene Investigator), and was also indicative of the record-keeping issues at some English forces. The role profiles had date stamps from various periods dating back to the late 2000s. Many had not been updated in years, and some forces could not provide data altogether. One reason given for noncompliance was that no staff had been hired by the refusing organisation during the period covering the FOI requests; the implication being that updating records was a more reactive than proactive exercise for some forces.

### **Delay and deadlines**

Most researchers experienced in using FOIL are convinced that it is ill-advised to rely on using its provisions to acquire data if one is working on tight deadlines or

the project for which the data is being collected was conceived on the expectation that fit-for-the-purpose, fully usable material would be available on request (Keen, 1992; Noakes, 1995; Price, 1997). There are examples of researchers waiting up to eight months to receive FBI records relating to the American Sociological Association (Keen, 1992), and others between 1977 and 1991, exchanging more than 1,700 letters with the FBI in relation to FOIL requests (Diamond, 1992). These issues often cause researchers to seek recourse to other sources (Noakes, 1995).

The issue was prevalent in this study too, when a London-based police force requested two separate extensions, taking over three months to respond to the request. During this time, there was no deadline or timetable, leaving the research process stagnant and prospects of receiving a reply uncertain. It is worth noting that this was the same force that had provided “full disclosure” without addressing an entire section of the request.

Problematic FOI request processing can, however, be contextualised and even excused due to ongoing organisational issues, such as understaffing, underfunding, and bureaucratic disorganisation. Commentators note that changes in personnel or administrative structure within agencies can also significantly affect FOIL compliance (Aid, 1998; Theoharis, 1998) and should therefore be an important matter of consideration for researchers using the method.

## DISCUSSION

The results and reflections on the experience of using FOIL can seem dissuading to prospective researchers. However, for any meaningful significance and implications of the findings of this paper to be gauged, the same should be contextualised in light of the underlying rationale and intended functions of UKFOIL, and the barriers it faces to live up to its potential.

Data administration practices and their real-world impacts on information freedom have, over the years, gradually gained importance; from a position of perceived democratic virtue to a business objective for public bodies (Pozen, 2016). In a climate where police performance is increasingly measured through metrics such as legitimacy, trust, and public confidence, the need for information compliance from a public relations standpoint has never been greater (Chowdhury, 2022). This is a recurring theme in advanced democracies where the increasing focus on image, maintenance of trust, confidence, and legitimacy to the public have become paramount for state security agencies (Giddens, 1990; Cain et al., 2003; Evetts, 2003; 2006).

This need has been further accentuated by bodies such as the European Union (EU), the Organisation for Economic Co-operation and Development (OECD), the United Nations Development Programme (UNDP) and the World Bank, along with non-state actors like the Open Society Institute maintaining calls for robust

Freedom of Information legislation (FOIL) around the world and assigning value to its introduction into an increasingly growing selection of jurisdictions (Ackerman & Sandoval-Ballesteros, 2006).

Consequently, the importance of investigation into the administration of FOIL, and evaluating its provisions and effectiveness has gained traction in adopting jurisdictions (Islam, 2003; OECD, 2005). However, the danger lies in the possibility that the operationalisation of such provisions is for the mere purpose of quelling international pressure, rendering them ineffectual and free from any purposeful impact (Open Society Justice Initiative, 2006; Relly & Sabharwal, 2009).

The findings of this paper provide a picture of the real-world gaps between policy and practice with regard to FOIL. The UKFOIL provisions for data collection made the most sense, due to the impracticalities of more traditional methods of qualitative data collection, principally surrounding the number of police forces and the volume of content being sought for the study. As the research questions were tied in with the methods, the substance of the FOI request was outlined with clarity and simplicity.

All 45 police forces were contacted via email, with replies varying in their timeframes and levels of detail. The major problems faced were non-response, late response, misunderstood request and as a result being sent wrong data, unlabelled data, raw data without contextual information to make sense of it, and out-of-date information.

Problems such as the inability to identify relevant material from unsorted data, being prescribed to pay substantial amounts in processing fees, and receiving large volumes of material containing a high level of garbage data were common issues throughout the jurisdiction. Findings by Burgess (2003) closely coincided with the refusal or stonewalling tactics experienced by the author of this paper, most prominently: (1) specification of data for administrative purposes, internal to the functioning of the organisation and, therefore, not applicable under FOIL; (2) concealment of information that is potentially available, but not readily at hand; (3) limited access to data, making it incomplete or misleading; (4) controlled access to data, rendering it distorted and giving the picture desired to be shown; and, (5) lengthy bureaucratic delays to dissuade the seeker.

The outcomes of the FOI requests and reasons provided for refusals, or returning incomplete data, provided a damning picture of data management practices in UK police forces. The organisations were severely lacking in terms of administrative efficiency due to non-standardised data retention and management procedures. There were also major differences in how police organisations stored, labelled, and presented data with relation to the same, or similar expense, and even how crime scene staff figures, crime scene, laboratory and overall scientific costs were perceived and recorded. Forces were either completely skirting their responsibilities under FOIL or responding but failing to retrieve the data due to

purported technological or management frailties. They also routinely provided incomplete data citing changes to computer systems, moving to a new style of data recording, and claiming not to hold breakdowns of spending or expenses beyond a general, estimated broad budget.

These failings are unsurprising, considering the ideological conflict between traditional policing traits such as the culture of tribalism and secrecy (Cockcroft, 2012), and the maxims of openness and transparency that freedom of information legislation demands (Kirtley, 2006). Researcher awareness is key in this regard, as organisational culture within law enforcement has traditionally favoured pushback against attempts by purported outsiders to gain information about the inner workings of the establishment (Delattre, 1989) as well as a propensity to shield colleagues from potential scrutiny (Chatterton, 1979).

This lack of transparency is compounded by the Home Office (2013) itself not possessing police force policy latency data. The National Audit Office (2014, p. 6) only has partial access to performance data, service quality and management information, quality management and accreditation, and the physical security of evidence in the forensic service sector. Neither body can compel any provider, including police forces, to provide data and forces are not obliged to provide information (p. 7). The data that does get collected relates to general police force expenditure (specifics are not often recorded as evidenced by this paper), market information through the Forensic Management Information Tool (FMIT), and supplier monitoring data such as turnaround times (p. 5).

Uniform data collection, cataloguing, storage, and networking would therefore have to be at the forefront of policy change if FOIL is to be a robust sociological method for UK policing research. A cultural shift must also be invoked to align the marketing rhetoric of openness and cooperation with actual performance of FOIL obligations by police forces. Discrepancies between the level of performance can be understandable because of imbalances in resource allocation to different forces. However, mirrored openness to quell international pressure or maintain brand image (Chowdhury, 2022) indicate that the legitimacy of UKFOIL must be earned through meaningful provisions of data democratisation within police forces, rather than the current self-preserving mechanisms of smoke and mirrors.

The UK's relatively late arrival to the freedom of information process [the first provisions date back to 1766 in Sweden (Ackerman & Sandoval-Ballesteros, 2006)] may also be preventing it from reaching its full potential and as a result keeping researchers from effectively using the method. There are encouraging signs, certainly in terms of the appointment of dedicated staff at police forces to handle FOI requests and the legislation compelling forces to provide reasons for refusal. It can therefore be anticipated that with time the UKFOIL mechanisms will self-correct their inherent frailties. However, until then, with the examples (in this paper, and

others) of UK police forces completely ignoring the legal provisions and not being held accountable for breaching statutory obligations, researchers should also be ready for lengthy periods of uncertainty and oftentimes disappointment.

## CONCLUSION

Freedom of information legislation retains the capacity to facilitate greater transparency in government operations, with scope for increased accountability for state actors. However, various organisational and policy frailties threaten its significance and impact. These relate to technical and legal characteristics of FOIL, as well as bureaucratic shortcomings such as implementation and enforcement. The legislation operates on the assumption that organisations will adhere to its provisions adopting a policy of openness in data sharing and management. This paper found that these principles are inherently incompatible with law enforcement, particularly concerning the wording of FOIL request refusals and the practices espoused by forces to attain the minimum threshold of compliance. Rife with arbitrary refusals, partial data, unformatted and unlabelled information, outdated records and in some cases outright non-responses, this study elucidates the fundamental problems that FOIL faces as a research method. While the process has been simplified somewhat by adopting submission mechanisms via the internet, the inkblot style of presentation leaves the collected data interpretative rather than declarative. Data management practices in such organisations require uniform practices for record retention, storage, and dissemination for the progression of FOIL as a worthwhile system of data democratisation. It would thus be appropriate to class FOIL as a developing method suitable for research in the policing sphere but this must be qualified by a disclaimer that despite the clarity, scope or breadth of the FOI request, the house (in this case, the gatekeeping organisation) with its broad powers of refusal and rebuke, (may) always win.

### **About the author:**

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