**Request to Durham Constabulary under the Freedom of Information Act**

**Received on 15/01/2018 Our Ref: DC/FOI 59/18**

**Date: 19/02/2018**

Your request:

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| This is a FOI request related to the Harm Assessment Risk Tool (HART). It is my understanding that HART is used by the police force to decide whether to keep a suspect in custody. In the following text HART is referred to simple as the “the system”.  As it is difficult for me to assess how much work it is for you to find this information, I am posing many questions at once. If the request as a whole exceeds appropriate cost limit for FOIs (Section 12 of the FOIA), could you please prioritise my questions in the order at which I have presented them.  Could you please supply the following:  1. If part of the system is being delivered through a contract with an external suppliers, please provide your most recent contracts with the providers.  2. The most recent evaluations of the functioning and impact of the system.  3. The most recent operational reviews of the system.  4. Instructional materials and technical manuals for operating the system.  5. Privacy impact assessments of the system.  6. Data sharing agreements related to the system.  7. Any studies or other documentation describing possible biases or unfairness in the system’s results.  8. Any reports about the accuracy or validity of the system’s results. |

I can confirm the information request is held by Durham Constabulary.

Durham Constabulary introduced the Harm Assessment Risk Tool, known as HART, to support decision making in the assessment of risk of reoffending over a two year period in serious or non-serious way. The aim is to support custody officers in the identification of offenders who could be eligible for deferred prosecution and inclusion onto a diversionary scheme. The purpose of the deferred prosecution is to understand which interventions work effectively in encouraging offenders away from criminality. In Durham Constabulary the deferred prosecution scheme is known as Checkpoint.

It is **not** the function of the HART model to make a decision which would result in the detention into custody of an individual.

Within the custody environment there are many different decisions to be made by the custody officer, such as police bail (conditional and unconditional); no further action being taken against a suspect; an out of court disposal for an offence committed; charging a suspect (less serious charge decisions made by the police and more serious charge decisions made by the Crown Prosecution Service) and following charge, court bail (conditional and unconditional) or custody with the defendant being placed before the next available court. The Harm Assessment Risk Tool contributes to this decision making process by assessing the risk of reoffending, as described above; however it is only one factor the custody officer can consider along with the statutory considerations they must consider both under the Policing and Crime Act 2017 and the Bail Act 1976.

Throughout the detention of a suspect the role of HART is as a decision support tool for the custody officer, as shown above, it is **not** the arbiter of bail or custody decisions, that function lies entirely with the custody officer whose decisions can be challenged within the custody environment via legal representation and via the courts.

Turning to the specifics of the request

In relation to Question 1: HART is part of a research collaboration between Durham Constabulary and the University of Cambridge there are no commercial suppliers or provider involved with the system.

In relation to Questions 4, and 6: No information held.

In relation to the remainder of the request I am not required by statute to release any further information by virtue of the following exemptions under the Freedom of Information Act 2000:

Section 21 (1) – Information reasonably accessible to the applicant otherwise than under section 1 (Freedom of Information Act 2000) is exempt information.

Section 22 – Information held with a view to future publication

Section 22A (1) (a) (i-iii) Information obtained in the course of, or derived from, a programme of research is exempt information if – (a) the programme is continuing with a view to the publication, by a public authority or any other person, of a report of the research (whether or not including a statement of that information), and (b) disclosure of the information under this Act before the data of publication would, or would be likely to, prejudice – (i) the programme; (ii) the interests of any individual participating in the programme; (iii) the interests of the authority which holds the information

Section 21 is an absolute class based exemption and does not require public interest arguments to be rehearsed. To assist the following links provide information on the evaluation of the original HART model (the historic data has recently been refreshed); written and oral evidence to the House of Commons Select Committee on Science and Technology; academic paper on bias within the system and the Checkpoint programme:

<http://www.crim.cam.ac.uk/alumni/theses/Sheena%20Urwin%20Thesis%2012-12-2016.pdf>

<http://shura.shu.ac.uk/17462/>

<https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3029345>

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/science-and-technology-committee/algorithms-in-decisionmaking/written/69002.pdf>

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/science-and-technology-committee/algorithms-in-decisionmaking/written/69063.pdf>

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/science-and-technology-committee/algorithms-in-decisionmaking/oral/75798.html>

<http://www.crim.cam.ac.uk/alumni/theses/Gillian%20Porter.pdf>

<https://www.durham.police.uk/Information-and-advice/Pages/Checkpoint.aspx>

The above is a selection of material on HART and the Checkpoint programme which is available via open source searches.

Section 22 and 22A are qualified class based exemptions and require consideration of the public interest to be made.

Public Interest Considerations in relation to Section 22 and 22A

Factors Favouring Disclosure

The HART model is part of an ongoing experimental research programme in relation to the diversionary scheme, Checkpoint. Disclosure of information would add to the public debate on the use of machine learning predictive tools to assist decision making functions, in this case the decisions by custody officers. Further disclosure would demonstrate Durham Constabulary’s transparency and accountability in relation to innovations around decision making and diversionary schemes.

Factors Favouring Non-Disclosure

The HART model and the Checkpoint programme are both ongoing experimental research projects in collaboration with the University of Cambridge. By the nature of such research there will be future developments as the process evolves. It is anticipated that there will be future publications as academic papers and Force information releases via its website on both aspects of the work.

The outcomes of the research programme are not yet known. As the HART model is designed to forecast reoffending over 24 months the accuracy or otherwise of its predictions cannot be assessed until at least the lapse of that period of time. Releasing information concerning the programme prematurely and in a piecemeal fashion, would lead to misleading information. Such misrepresentation would likely undermine individual confidence in the diversion programme and similar effect on public confidence. The credibility of the research could also be damaged and detract from the outcomes.

Given that the aim of the Checkpoint programme is to reduce offending and de-escalate offending behaviours there is a strong public interest in properly evaluating and reporting on the research findings. Reducing offending is a key objective of local policing and national law enforcement. The combined research around HART and Checkpoint are in the interests of Durham Constabulary as it may deliver more efficient, effective and less costly alternatives to court prosecutions. In improving the life chances of offenders and reducing reoffending there would be fewer victims and less harm caused to communities. The overall reduction in recidivism will consequently lead to a general reduction in demand on the criminal justice system. In addition the programme’s aim is to support delivery of core law enforcement by reducing victimisation and addressing the complex needs of offenders.

During the implementation stages of the programme there appears to have been some promising findings. In 2016 Checkpoint was recognised by the Howard League for Penal Reform – see the website link below:

<https://howardleague.org/community-awards/2016-community-award-winners>

Balancing test in relation to Sections 22 and 22A

The public interest test is centred on whether information should be released to the world at large and not just to you as the requester. The key test when considering the public interest is to establish whether in all the circumstances of the request the public interest in disclosing the information is not outweighed by that in maintaining the exemptions.

I have considered the impact of releasing further information would have in relation to the ongoing experimental research on the HART model and Checkpoint Programme. It is important to recognise that the experimental use of HART is as one tool in the assessment of an offender for their potential inclusion in the experimental Checkpoint Programme. Whilst there is considerable public interest in knowing about the development of the HART model it would be premature to do so at present as this is ongoing research and it anticipated that findings will be published in the future as explained above. It is recognised that releasing further information would add to the public discourse on the use of computer assisted decision making in the policing environment and in the diversionary schemes. However both HART and Checkpoint Programme are developmental and as yet there is no definitive results of these experiments to disclose, other than those already in the public domain.

I have also considered the impact on offenders, on Durham Constabulary and the partnership approach to policing and the relationships with partner agencies in relation to the delivery of the Checkpoint Programme and the potential for changing criminal behaviour in those who agree to participate in the programme.

Decision

Whilst the public interest considerations favouring disclosure carry some weight, it is felt that on balance the factors favouring non-disclosure are of greater importance. As the use of HART and the Checkpoint Programme are still experimental and as such are subject to development and change as the trial information on both is gathered and assessed it would be premature to release further information which could lead to incorrect assumptions or conclusions.

In accordance with Section 17 of the Freedom of Information Act 2000 this letter acts as a Refusal Notice in relation to any further information.

Please note that Durham Constabulary’s response to your request is unique and should not be used as a comparison with any other Force response you receive.

**COMPLAINT RIGHTS**

Your attention is drawn to the below link to our website, which details your right to complain:

<https://www.durham.police.uk/About-Us/Freedom-of-information/General/Pages/FOI-Request.aspx>

If you have any further enquiries concerning this matter, please write or contact me on the above telephone number.

I hope this is of assistance to you.

A Hattersley

Information Rights and Disclosure Unit