



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

FREEDOM OF INFORMATION REQUEST



Request Number: F-2008-04664

Keyword: Finance

Subject: COST OF RETRIEVAL OF TELEPHONE RECORDS

Request:

Please supply the following information separately for (i) the financial year 2006/7 and (ii) the current financial year to date:

- a) The amount of money paid to telecommunications companies in connection with retrieval of telephone records to assist with police investigations
- b) A breakdown of the information in (a) by company
- c) The total number of applications made to telecommunications companies for this purpose
- d) The three highest individual payments made for this purpose, including the name of the company involved and the nature of the relevant investigation.

Clarification received

The requester has clarified that they actually mean financial years 07/08 and 08/09 to date, as opposed to 06/07.

Answer:

I am writing to confirm that the Police Service of Northern Ireland has now completed its search for the information.

I have today decided to provide the located information in relation to questions (a) and (c) only.

Answer (a)

2007/08 £176,694.86 and the current financial year to date £98,925.72

Answer (c)

Year 2007/08 there was 4151 applications processed. Unfortunately due to a system fault the requested data for the current financial year to date is unavailable at present.

In relation to questions (b) and (d) PSNI fully exempt the requested information pursuant to the provision of Section 31 Law Enforcement of the Act.

Section 17 of the Freedom of Information Act 2000 requires the Police Service of Northern Ireland, when refusing to provide such information (because the information is exempt) to provide you the applicant with a notice which:

- (a) states that fact,
- (b) specifies the exemption in question and
- (c) states (if not otherwise apparent) why the exemption applies.

Qualified Exemptions

Section 31 Law Enforcement 1 (a) (b)

HARM

The harm in disclosure is that the specific nature of the information requested would reveal the extent of communications data involved in each investigation. This information coupled with the nature of the investigation will reveal tactical information and could identify the types of investigations that rely on the acquisition of communications data as a principal investigative tactic. It is likely that this information could compromise the specific investigations involved if they are ongoing and more generally raise awareness of the use of communications data in the investigation of crime.

Therefore, by default, the requested information will reveal tactical information relating to a major source of intelligence and evidence, the overall effect would be to prejudice substantially the prevention or detection of crime and the apprehension or prosecution of offenders using communications data.

Considerations favouring disclosure:

Accountability

The disclosure of the information requested will reveal to a degree the extent of police use of communications data and could therefore cause police forces/services to account for their use of their statutory powers in this area.

Human rights, morals and ethics

The rationale is similar to that expressed under accountability. The information could enable, to a degree, an analysis of the extent of the use made of communications data and any perceived interference with individual rights under the Human Rights Act and in particular article 8 rights.

Public awareness and debate

The release of the requested information would provide some statistical information that could contribute both to public awareness and public debate, adding a degree of accuracy to current perceptions.

Use of public funds

There is a general public interest in how public funds are spent and this information would assist in understanding how police forces/services spend money.

Considerations favouring non-disclosure

Efficient and effective conduct of the service/force

The harm identified earlier in this document - compromised investigations and the potential for criminals migrating to perceived "safer" Communication Service Providers (CSPs) - will have a detrimental impact on the investigation of serious crimes, causing police forces/services to devote additional time and resources into such investigations. This will have an impact on the investigation of serious crime and a potential knock on effect to general policing, as resources have to be redeployed.

Existing Procedures

There is statutory oversight of the use of powers under Regulations of Investigatory Powers Act (RIPA) and Regulations of Investigatory Powers Scottish Act (RIPSA) by the Office of the Interception of Communications Commissioner (ICC). The nature of the information involved dictates that the public examination of the information is likely to have a detrimental impact on policing however the public interest in oversight is fulfilled by the ICC.

Investigations

It is rare that details of an investigation will be disclosed as to do so will invariably release personal information, law enforcement techniques and in the case of uncompleted cases potentially damage the criminal justice process. The information linked to investigations in this request is recent, may involve ongoing investigations and will reveal to extent to which communications data has been used. The danger of compromise to the specific investigations and similar current and future investigations is not in the public interest.

Public Safety

The use of communications data is a key investigative tool used by the police and other agencies involved in the investigation of serious crime and terrorism. The extent of use of communications data and the capabilities of the various CSPs in providing the data is not in the public domain, thus giving an operational and tactical advantage to the police and agencies. Any eroding of this advantage can only benefit the criminals and will have an inevitable impact on public safety, particularly in terms of terrorism and organised crime including drugs trafficking. The public interest clearly lies in favour of maintaining the balance in favour of police and other agencies.

Balancing Test

It is acknowledged that there is a clear public interest in the accountability for spending public funds and that police forces/services are held to account for their actions, including the use of statutory powers. Accordingly these aspects are considered the strongest strands of the argument in favour of disclosure of the information requested. On the other hand, public safety and the ability of the police and other agencies to maximise investigative advantages are the principal arguments in withholding the information. A key consideration is the types of criminality for which communications data is requested. While it is possible for a wide range of criminal investigations to accrue advantage from the acquisition and analysis of communications data, the reality is that generally it is the most serious of crimes - terrorism, drug trafficking and organised serious crime groups - that form the bulk of requests for communications data. These types of crime, and the criminals who carry them out, impact directly on public safety and this is the key factor in this balancing test. The argument for disclosure is further weakened when the current accountability framework is examined. Independent Commissioners have been appointed who are responsible for ensuring that the powers available to law enforcement bodies are used appropriately. They have the power of inspection and produce information into the public domain via reports, which are publicly available. There is no evidence to suggest that they are ineffective, which means that the police are already held to account for the use of RIPA legislation, this would not be further enhanced by a disclosure under Freedom of information.

Accordingly, it is assessed that the Public Interest lies in favour of maintaining the exemption and refusing to provide the information requested in Sections b) and d) of the request

If you have any queries regarding your request or the decision please do not hesitate to contact 028 9070 0164. When contacting the Freedom of Information Team, please quote the reference number listed at the beginning of this email.

If you are dissatisfied in any way with the handling of your request, you have the right to request a review. You should do this as soon as possible, or in any case within two months of the date of issue of this letter. In the event that you require a review to be undertaken, you can do so by writing to the Head of Freedom of Information, PSNI Headquarters, 65 Knock Road, Belfast, BT5 6LE or by emailing foi@psni.pnn.police.uk

If following an internal review, carried out by an independent decision maker, you were to remain dissatisfied in any way with the handling of the request you may make a complaint, under Section 50 of the Freedom of Information Act, to the Information Commissioner's Office and ask that they investigate whether the PSNI has complied with the terms of the Freedom of Information Act. You can write to the Information Commissioner at Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. In most circumstances the Information Commissioner will not investigate a complaint unless an internal review procedure has been carried out, however the Commissioner has the option to investigate the matter at his discretion.

Please be advised that all PSNI replies under Freedom of Information will be released simultaneously into the public domain via our website @ www.psni.police.uk

Personal details in respect of your request have, where applicable, been removed to protect confidentiality.