



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2008-05174

**Keyword:** Operational Policing

**Subject:** ERNEST GEORGE FINLAY

### Request:

**Question 1** - The date that Ernest George Finlay was released from serving his most recent prison sentence (for breach of post-custody conditions)?

**Question 2** - How much money was spent on surveillance/managing the risk/observing Ernest George Finlay since his most recent release from prison?

**Question 3** - A breakdown of what this money was used for (for example, how much for surveillance, how much for home visits etc)?

### Answer:

I am writing to confirm that the Police Service of Northern Ireland has now completed its search for the information and the answers to your questions are as follows-

**Answer 1** - The Police Service of Northern Ireland can advise that Ernest George Finlay was released from prison on Friday 4th April 2008 having served his most recent period of imprisonment.

**Answer 2 & 3** - The total amount of money spent managing Ernest George Finlay since his release from prison is not held in a retrievable format and because of this I can advise that the Police Service of Northern Ireland do not hold information in relation to the cost element.

Section 1 of the Freedom of Information Act 2000 (FOIA) places two duties on public authorities. Unless exemptions apply, the first duty at s1 (1)(a) is to confirm or deny whether the information specified in a request is held. The second duty at s1 (1)(b) is to disclose information that has been confirmed as being held. Where exemptions are relied upon s17 of 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.

The Police Service of Northern Ireland can neither confirm nor deny that it holds any information in relation to surveillance as the duty in s1 (1)(a) of the Freedom of Information Act 2000 does not apply, by virtue of the following exemptions:

Section 44(2) Prohibitions on Disclosure;  
Section 23(5) Information relating to the Security bodies;  
Section 40(5) Personal Information;  
Section 24(2) National Security;  
Section 30(3) Investigations;  
Section 31(3) Law enforcement.

This response should not be taken to indicate that the information you have requested does exist or does not exist.

Sections 44, 23 and 40 are absolute exemptions but sections 24(2), 30(3) and 31(3) are qualified and require us to carry out a public interest test before they can be relied upon. In respect of all three qualified exemptions we have determined that in all the circumstances of the case, the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in confirming whether we hold the information.

#### *Disclosure Considerations*

To confirm or deny any Police actions in this specialist tactical area would undermine ongoing investigations, reveal policing techniques, risk the identification of individuals, the possibility of revealing involvement of any exempt bodies and the risk in undermining National Security.

The Police Service is committed to demonstrating proportionality and accountability regarding surveillance techniques to the appropriate authorities. However, if the Police Service were to either confirm or deny these questions, other covert surveillance tactics will either be compromised or significantly weakened. If the Police Service denies a tactic is used in one request but then exempts for another, requesters can determine the 'exempt' answer is in fact a technique used in policing. The impact could undermine national security, any on-going investigations and any future investigations, as it would enable targeted individuals/groups to become surveillance aware. This would help subjects avoid detection, and inhibit the prevention and detection of crime.

#### *Factors Favouring Compliance with Section 1(1) a (To confirm or deny)*

Confirming or denying that these powers have been used would increase public scrutiny of police actions and in turn hold the police service to account.

It is appreciated that members of the public will naturally be interested in techniques employed for surveillance. Likewise, we also understand some people believe surveillance (in any form) is used too widely, and therefore an unnecessary intrusion into their privacy. Confirmation or denial of the use of this operational tactic will enable better informed public debate.

#### *Factors Favouring the need to NCND*

To confirm or deny if this information does or does not exist will render policing tactics ineffective as previously outlined. There already exists a legislative scrutiny framework for RIPA activity: Police surveillance activity is subject to annual inspection by the IOCCO (Interception of Communications Commissioners Office). These inspections assess each Constabulary's compliance with the legislation and a full report is submitted to the Prime Minister and Scottish Ministers.

If you have any queries regarding your request or the decision please do not hesitate to contact me on 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](mailto: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 PSNI replies under Freedom of Information may be released into the public domain via our website @ <http://www.psni.police.uk/>

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