



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

FREEDOM OF INFORMATION REQUEST



Request Number: F-2009-00414

Keyword: Crime

Subject: FORENSIC RETESTING

Request and Answer:

Which investigations have been provided with new information as a result of forensic re-testing conducted by forensic suppliers in the wake of Operation Cube? The operation was launched nationally in late 2006/early 2007 after problems were identified with previous forensic DNA testing - known as "inhibition" - in the Rachel Nickell murder case. In the operation, 4,841 samples were re-tested by forensic suppliers, providing new information in 342 cases nationwide, 15 of which were described by police sources as "significant".

Questions:

1. Were any of these 342 cases - and the sub-set of 15 "significant" forensic results - related to investigations in your force area? (Please be specific if the re-testing led to "significant" new evidence in an investigation.)
2. If new information did arise, what crime categories did this new information relate to? (Murder, rape, robbery, etc.)
3. What were the dates of these offences? (Approximate dates are acceptable.)
4. What were the specific investigations, which received new evidence as a result of the re-testing? (Please provide a description of the offence, the exact location and the victim's name, if previously released.)
5. Has the information led to new arrests and/or charges?

Answer:

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 section 17 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) state (if that would not otherwise be apparent) why the exemption applies.

The PSNI can neither confirm nor deny that it holds the information relevant to your request as the duty in s1 (1)(a) of the Freedom of Information Act 2000 does not apply, by virtue of the following exemptions:

S30 (3) (Police Investigations)
S31 (3) (Law Enforcement)
S40 (5) Personal Information

Although it has been publicly acknowledged that Operation Cube is ongoing and its purpose is to focus on retesting low copy number DNA for investigative purposes, the Police Service will not reveal detail relating to any current or historic investigations where such detail would be detrimental to that investigation. To do so would disclose tactical information and prejudice effective law enforcement techniques.

Disclosure under Freedom of Information is a release of information to the world in general and not an individual applicant. Therefore, simply confirming or not that such information were held would reveal individual force operational activity and potentially lead to the identification of an offender or victim.

There is a requirement to consider whether there is any public interest which may overcome the harm in confirming or denying the existence of such information, which primarily hinges, for non-disclosure, on Investigations and Efficient and Effective Conduct of the Service and, favouring disclosure, Accountability. Following a report "Forensic Science on Trial" a recommendation proposed the creation of the position of a Forensic Science Regulator who was appointed to advise Government and the Criminal Justice System on quality standards in the provision of forensic science. Therefore any accountability factors are already catered for and would not be enhanced by confirming or not the existence of such information in relation to any investigation.

An example of where this harm could occur may best be demonstrated with a fictional scenario. If I submitted a Freedom of Information request to all forces asking for drugs raid statistics relating to a high profile national ongoing drugs operation, if all forces either exempted the information or stated 'no information held' I would be able to geographically map where police activity for that operation had occurred. Such awareness would identify to an individual intent on committing further crime which areas are 'safe' to continue with their offending behaviour and which are 'vulnerable'.

Therefore, at this time, the balance of the public interest favours maintaining our stance in being unable to confirm or deny that the information requested exists.

No inference can be taken from this refusal that the information you have requested does or does not exist.

The Home Office publishes a response to Professor Brian Caddy's Review of the Science of Low Template DNA Analysis, which may assist the applicant. Under Section 16 Duty to Assist the applicant can be referred to this publication, see below link:

<http://police.homeoffice.gov.uk/publications/operational-policing/response-caddy-dna-review>

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 PSNI replies under Freedom of Information may be released into the public domain via our website @ www.psnipolice.uk

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