



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

FREEDOM OF INFORMATION REQUEST



Request Number: F-2009-01725

Keyword: Crime

Subject: MURDERS OF DAVID McILWAINE & ANDREW ROBB

Request and Answer:

Question

Under the FOI can you kindly give me details on how much public money has been spent to date on facilitating the upkeep and expenses of Mark Burcombe who is currently in a witness protection scheme after giving evidence in the murders of David McIlwaine and Andrew Robb?

Answer

Your request for information has now been considered.

PSNI can, however, advise you, as required by Section 17 of the Act that such information, if it were to exist, would be reasonably expected to be exempted under the following exemptions.

In reliance on the exemptions in sections 23(5), 24(2), 30(3), 31(3), 38(2) and 40 (5) of the FOI Act 2000 the Police Service of Northern Ireland can neither confirm nor deny that it holds the information you have requested.

To the extent that section 24(2), 31(3), 38(2) applies, it has been 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 or not the information is held. To give a statement of the reasons these exemptions apply would involve the disclosure of information which would itself be exempt.

Absolute Exemptions

Section 23 (5) Information supplied by, or concerning, certain security bodies.

Section 40 (5) Personal Information.

Qualified Exemptions

Section 24 (2) National Security.

Section 30 (3) Investigations and proceedings conducted by public authorities.

Section 31 (3) Law Enforcement.

Section 38 (2) Health and Safety.

However, this should not be taken as conclusive evidence that the information you requested exists or does not exist.

Sections 23 (5) and 40 (5) are class based absolute exemptions and therefore there is no need to explain the public interest considerations in this area, it is required that we articulate the public interest considerations for the use of Sections 24 (2), 30(3), 31 (3) and 38(2).

HARM

The release of information under FOIA must be considered a release of information to the world as a whole.

Crime Operations Department PSNI has an important role in countering the many threats against society. The flow of information is essential in its work and release of information regarding the Witness Protection Scheme could compromise the confidence of individuals supplying information.

Therefore, simply confirming or not that such information were held could impact on the effectiveness of the scheme.

To neither confirm nor deny the requested information could identify the level of expenditure used within the scheme. The harm in doing this has the potential to provide a level of awareness that could identify police tactics that currently exist within the PSNI law enforcement process. Such a disruption could subsequently damage national security in reducing the ability and manner in which the PSNI would be able to effectively protect the safety and well being of its community.

Confirming or denying the level of detail you are requesting, could lead to individuals being personally identified and their own and family's safety endangered should the information be acted upon by an individual or criminal organisation intent on breaching current PSNI security processes.

Public Interest Test

The public interest test is as follows: -

Considerations Favouring Disclosure

Accountability

When information relates directly to the efficiency and effectiveness of the PSNI or its officers it would generally be of benefit to the community to confirm whether information requested is held or not.

Public Debate

To confirm whether information requested is held or not could contribute to the quality and accuracy of public debate.

Considerations Favouring Non-Disclosure

Efficient and effective conduct of the service.

To confirm or deny whether any information is held or not has the potential to compromise the prevention and detection of crime.

Current investigations

It is in the public interest to engage the neither confirm nor deny principle to any information that may be of assistance to anyone involved in criminal activity or matters relating to national security.

Balancing Test

Having considered the arguments highlighted above it is considered that the balance in the public interest test is one of maintaining the exclusion of the duty to confirm or deny as it outweighs the public interest in disclosing whether PSNI holds the information requested.

In accordance with the Act, this letter represents a Refusal Notice for this particular 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 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.