



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

FREEDOM OF INFORMATION REQUEST



Request Number: F-2009-01858

Keyword: Crime

Subject: PROSTITUTION - LISBURN ROAD, BELFAST

Request and Answer:

Question

I have a campaign against the PSNI's mistreatment of alleged sex crime victims.

I would like notes or records, including texts, e-mails and telephone notes relating to how the filming of the Six Chinese women rescued from brothels in PSNI raids was coordinated by the PSNI.

It is in the interests of justice for this information to be released because the PSNI have lied so often in relation to prostitution on the Lisburn Road and because the forced filming of alleged sex crime victims is a radical departure from UK policing norms.

My position is that it is similar to a campaign I organized in the United States involving Sheriff Joe Arpaio, he was producing what amounted to pornography using female detainees. The PSNI film footage is also in my opinion prurient & tabloidesque.

The Chinese females clearly objected to the filming as can be seen by attempts to shield their faces from the camera crew.

JAIL WEBCAMS

\$1-billion lawsuit against porno sheriff

Posted Wed, 30 May 2001

A \$1.38-billion lawsuit has been filed against the sheriff of Maricopa County in Arizona for his use of jail webcams that showed female inmates using the toilet. The sheriff - Joe Arpaio - who has been dubbed "the nation's toughest sheriff", has been accused of sexist behaviour and mistreatment of women.

So, the same as that, as a privacy abuse, and therefore I would like any records the PSNI has, as to how that exploitative filming which was used by 'for profit' agencies, was organized.

I think the Police Ombudsman has referred the issue to your standards section, that shouldn't be an excuse for another cover-up or anything, do you follow?

Answer

PSNI advise that on some occasions, media representatives will be allowed to accompany officers on specific patrols and operations. On all such occasions the PSNI complies with the law and protects officers and the rights of victims, witnesses, suspects and members of the public.

Further information, which may be of interest to you, can be accessed via www.belfasttelegraph.co.uk in an article entitled "Women rescued from brothels in PSNI swoops".

However, specifically in relation to your request for information PSNI has decided not to supply the information you have requested.

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.

The exemptions, as well as the factors the Department considered when deciding where the public interest lies, are listed below:

Absolute Exemptions

Section 40 (2) Personal Information

Section 44 (1)(a) Information covered by Prohibitions on Disclosure

Qualified Exemptions

Section 30 (1)(a)(b)(c) Investigations and Proceedings conducted by Public Authorities

Section 38 (2) Health and Safety

HARM

Under the Freedom of Information Act (2000) any information released under FOI is released into the public domain, not just to the individual requesting the information.

The essence of the work undertaken by the PSNI is to protect both individuals and society as a whole.

Section 30 (1) - a public authority is exempt from the duty to communicate information where that information has, at any time been held for the purposes of any investigation, which the public authority has a duty to conduct. The fact that individuals may still be identified, could mean that any further investigations could be compromised.

Police investigations are conducted with due regard to confidentiality. There is an expectation that details provided are to be used only for the purpose for which provided.

If any details were disclosed there is the possibility that it may endanger the physical or mental health of an individual.

The European Convention of Human Rights states under Article 8 that each person has the right to respect for private family life. Section 38 of the Freedom of Information Act 2000 also protects an individual's physical health and mental wellbeing whether the harm is real or perceived. Therefore the PSNI consider that by releasing notes, records, including texts, e-mails and telephone notes relating to how the filming of the Six Chinese women rescued from brothels in PSNI raids was coordinated by the PSNI may have the potential to identify different person/s and would not be in keeping with the Act.

Where an application for information is made by someone other than the 'data subject' disclosure of that information will often constitute a breach of the Data Protection Act and consequently the public authority will usually be exempt from its duties under the Act as a result of Section 40 (2).

Public Interest Test

The public interest test relevant is as follows: -

Favouring Disclosure

Accountability

When information disclosed relates directly to the efficiency and effectiveness of the service or its officers. The release of information will enable the public to have a better understanding of the efficiency and effectiveness of the PSNI, particularly in relation to operations, which are undertaken in order to target specific crime, in this case human trafficking and the sexual exploitation of those women.

Public Debate

Where the release of information would contribute to the quality and accuracy of public debate.

Investigations

There tends to be a considerable public interest in criminal cases in seeing that justice is done.

Accountability for Public Funds

Where public funds are being spent, there is a public interest in accountability and justification.

Considerations Favouring Non-Disclosure

Efficient and effective conduct of the service.

It would not be in the public interest to release information that may prevent or hinder current and future police investigations and regulatory enforcement.

Human Rights, Morals and Ethics

The public interest will not be served if disclosure breaches the obligations placed on an authority under the European Convention on Human Rights, particularly the right to life, fair trial and privacy.

Also, the human rights of the victims involved in these crimes need to be considered and it would simply not be right to disclose to the world in general information which could lead to the identification of these vulnerable women.

Current investigations

It is the Association of Chief Police Officers approach that information relating to an investigation will rarely be disclosed under the provisions of the Freedom of Information Act. Whilst such information may be released if it provides a tangible community benefit, for example to prevent or detect crime or to protect life or property, it is hard to see how the information here will do so.

Criminal Investigations

Information relating to a criminal investigation will rarely be disclosed under FOIA and only where there is a strong Public Interest consideration favouring disclosure.

Interests of Third Parties

Where third party interests might be jeopardised by release of information that relates to personal affairs of individuals or operational issues. See also Data Protection issues.

Although the request does not ask for personal data the interests of third parties, i.e. victims, could still be jeopardised by the release of information that could lead to their identification.

Flow of Information to the Service

Where releasing information would act as a deterrent to the Public to provide information to the Service. With this relationship impeded, it would be more difficult for the Service to gather information required to perform its Public service functions.

Tort in Law

In circumstances where the PSNI is under a legal obligation to maintain confidences, it would not be in the public interest to release the information if the grounds for this duty can be shown to be valid.

Balancing Test

After weighing up the competing interests PSNI have determined that the disclosure of the information would not be in the public interest.

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

Absolute Exemptions

Section 23(5) Information Supplied by or relating to Security Bodies

Section 40(5) Personal Information

Section 44(2) Prohibitions on Disclosure

Qualified Exemptions

Section 30(3) Investigations

Section 31(3) Law Enforcement

Section 38(2) Health and Safety

Sections 23, 40 and 44 are classed based absolute exemptions and therefore there is no need to explain the public interest considerations in this area, however, it is required that PSNI articulate the public interest considerations for the use of NCND within exemptions 30, 31 & 38.

To the extent that Section 30 (3), 31 (3) and 38 (2) apply, PSNI 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 PSNI hold the information.

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

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.psni.police.uk

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