



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

FREEDOM OF INFORMATION REQUEST



Request Number: F-2009-02567

Keyword: Crime

Subject: USE OF RIPA (Regulations Of Investigatory Powers)

Request and Answer:

Question 1

The number of times that your force has used the RIPA Act to keep a person or persons under surveillance for the following years -

2008-09
2007-08
2006-07
2005-06
2004-05

Question 2

Please state for each case what the crime was that was alleged to have been committed (or why the person or persons was or were being kept under surveillance).

Please could you provide me with a comparison for your force?

Answer

Your question relates to various surveillance elements with the RIPA legislation, Regarding the Acquisition of Communications Data, Directed Surveillance and Access to Electronic Data protected by encryption. PSNI does not retain this information in an easily retrievable format. A case by case search would have to be carried out to obtain this information. To conduct this search would involve a disproportionate amount of resources, which could impact, on the PSNI's ability to deliver a professional service to the community. This search may or may not reveal the information you have requested. If this search were unsuccessful, other agencies would have to be contacted thus further increasing the cost, and exemptions may apply.

It is therefore considered the cost of complying with your request for information would exceed the appropriate limit as stated in the Freedom of Information Regulations 2004, which is currently set by the Secretary of State at £450.

You may wish to submit a refined request in order that the cost of complying with your request may be facilitated within the appropriate limit. Submission of a refined request would be treated as a new request, and considered in accordance with the Freedom of Information Act 2000, including consideration of relevant Part II exemptions.

Section 1 of the Freedom of Information Act 2000 (FOIA) places two duties on public authorities. Unless exemptions apply, the first duty at Sec1 (1) (a) is to confirm or deny whether the information specified in a request is held. The second duty at Sec1 (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.

Regarding Interception of Communications, Intrusive Surveillance and Covert Human Intelligence Sources the PSNI can neither confirm nor deny that it holds the information you requested as the duty in s1(1)(a) of the Freedom of Information Act 2000 does not apply, by virtue of the following exemptions:

Section 23(5) Information relating to the Security bodies;
Section 24(2) National Security;
Section 30(3) Investigations;
Section 31(3) Law enforcement;

This should not be taken as conclusive evidence that any information that would meet your request exists or does not exist.

Sections 23 is an absolute exemption but sections 24(2), 30(3), and 31(3) are qualified and require us to carry out a public interest balancing test before they can be relied upon.

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 could 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.

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.

Factors favouring the need to NCND

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

The following bodies oversee the use of RIPA:

Office of Surveillance Commissioner - The OSC's aid is to provide effective and efficient oversight of the conduct of covert surveillance and covert human intelligence sources and investigation of electronic data protected by encryption by public authorities in accordance with Parts II and III of RIPA. Details of the current annual report can be found on the OSC web site.

www.surveillancecommissioners.gov.uk/about_annual.html

Interception of Communications Commissioner - The interception of communications commissioner is both in relation to the interception of communications and access to communications data. Statistics are published in:

www.official-documents.gov.uk/document

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

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