



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2009-00255

**Keyword:** Operational Policing

**Subject:** REQUEST FOR INQUEST PAPERS

### Request and Answer:

#### Question

There was an Inquest held in 2008 on behalf of my son. I request for all records related to this Inquest.

#### Answer

Your request for information has now been considered and the decision has been taken 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 exemption/s, as well as the factors the Department considered when deciding where the public interest lies, are listed below:

Absolute Exemption

Section 40 (2)(3) Personal Information

Qualified Exemptions

Section 30(1)(2) Investigations and proceedings conducted by public authorities

Section 38(1) Health and Safety

HARM

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. Even though a considerable amount of time has passed since the death of your son, the fact that individuals may still be identified, could mean that any further investigations could be compromised.

The European Convention of Human Rights states under Article 8 that each person has the right to respect for private family life. Also Section 38 of the Freedom of Information Act 2000 protects an individual's physical health and mental wellbeing whether the harm is real or perceived.

## Public Interest Test

The public interest test relevant is as follows: -

### Favouring Disclosure

#### Accountability

The actions of the Police Service, particularly in relation to crime requires appropriate application of legislation. This information would go some way towards reassuring those factors.

#### Justice to an Individual

The public interest may be served by providing individuals with information of particular reference to them and their situation, e.g. information that would assist the applicant to understand the steps taken by the service in dealing with their request/complaint, information which would assist them to assess whether to pursue a legal remedy or otherwise.

### Media and Public Interest

To satisfy the media and public interest.

#### 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.

Where the current or future law enforcement role of the force may be compromised by the release of information, for example in this case, future court proceedings could be jeopardised.

#### Human Rights

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. Some cases may be subject to court imposed reporting restrictions.

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

#### Current investigations

It would not be in the public interest to release information that may still be of assistance the PSNI in relation to any unresolved 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.

#### Existing Procedures

It would not be in the public interest for Freedom of Information to be used to obtain information, which is already

available under existing procedures.

#### Tort in Law

In circumstances where the service/force 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.

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](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 @ [www.psni.police.uk](http://www.psni.police.uk)

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