



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2010-00602

**Keyword:** Crime

**Subject:** Request a Copy of a PSNI Investigation File and Forensic Report

### Request and Answer:

#### Question

I wish to make an FOI Application in relation to an incident involving my son. I want to obtain a copy of the PSNI file and the forensic report. I believe that the incident occurred in 2004 to the best of my recollection.

An electronic listening/transmitting device was found planted on my son. My son is XXXX. It was placed there by his step father. The incident was investigated by XXXX CID...XXXX was the IO at the time.

#### Answer

In accordance with the Act, this letter represents a Refusal Notice for this particular request. The Police Service of Northern Ireland can neither confirm nor deny that it holds the information you have requested.

Section 1 of the Freedom of Information Act 2000 (FOIA) places two duties on public authorities. Unless exemptions apply, the first duty at Section 1(1)(a) is to confirm or deny whether the information specified in the request is held. The second duty at Section 1(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) states (if that would not otherwise be apparent) why the exemption applies.

The Police Service of Northern Ireland (PSNI) can Neither Confirm Nor Deny that it holds the information relevant to your request as the duty in Section 1(1)(a) of the Freedom of Information Act 2000 does not apply by virtue of the following exemptions:

Section 30(3) – Investigations and Proceedings  
Section 40(5) – Personal Information

Section 30 is a Class Based and Qualified exemption. This means that it is not necessary to consider the harm in confirming or denying the existence of the requested information but it is necessary to consider the public interest. This exemption applies because the requested information, if held would relate to an investigation by the PSNI into an alleged offence or offences.

Although Section 40 is an Absolute and Class Based exemption, it is necessary to consider the public interest for the purposes of confirming or denying the existence of the requested information. This exemption applies because all releases under FOI are releases into the Public Domain. The requested information, if held would amount to the personal information of individuals contained within the file/forensic report. Simply to confirm the existence of the file would amount to a release of that personal information into the public domain, and this would be a breach of the Data Protection Act.

### **Public Interest Test**

#### Section 30

##### Factors Favouring Confirmation or Denial

The public have a right to expect transparency and accountability in relation to the use of Public Funds. By confirming or denying the existence of an investigation file and forensic report in relation to this alleged complaint the public will be informed of investigations that public funds are spent on.

##### Factors Against Confirmation or Denial

Confirming or denying the existence of an investigation file and forensic report in relation to this alleged complaint would hinder the prevention and detection of crime as an investigation would be prejudiced.

#### Section 40

##### Factors Favouring Confirmation or Denial

Confirmation or Denial of the existence of an investigation file and forensic report in relation to this alleged complaint would enable the public to have a better knowledge of whether information was known about individuals and therefore a better understanding of the decision making process when it comes to the disclosure of personal details.

##### Factors Against Confirmation or Denial

Confirming or denying the existence of an investigation file and forensic report in relation to this alleged complaint would contravene the first principle of the Data Protection Act which states that personal data shall be processed fairly and lawfully and that a public authority must handle people's personal data only in ways that they would reasonably expect.

##### Balance Test

The PSNI is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. The PSNI will not divulge whether information is or is not held if to do so would adversely affect these important roles. Whilst there is a public interest in the transparency of policing operations and providing assurance that the PSNI is appropriately and effectively dealing with crime, there is a strong public interest in safeguarding the integrity of police investigations and operations, and in maintaining confidence in the PSNI with regard to its handling of individual's personal data. It is for these reasons that the Public Interest must favour neither confirming nor denying that the requested information is held.

None of this however, should 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 me on 028 9070 0164. When contacting the Freedom of Information Team, please quote the reference number listed at the beginning of this letter.

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.