



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

## FREEDOM OF INFORMATION REQUEST



**Request Number:** F 2010 01467

**Keyword:** Crime

**Subject:** SCHEDULE 7 TERRORISM ACT

### Request and Answer:

#### Request

Please could you provide me with the following information in relation to Schedule 7 of the Terrorism Act 2000:

- (a) whether or not this police force records stops under this power and if so what type of stops are they?
- (b) whether or not the ethnicity of such individuals are also recorded
- (c) breakdown of the number of people stopped and their ethnicity since records began.
- (d) number of people for whom fingerprints or DNA samples have been recorded

#### Response

Having conducted appropriate searches and discussed this request with relevant contacts, we are aware that the Home Office, the office of the National Co-ordinator PROTECT and PREPARE (NCP&P) and their respected partners are in on-going, productive dialogue about the release of limited national Schedule 7 data where it will not adversely affect national security interests.

#### Background information

Section 53 of the Terrorism Act 2000 brought into effect Schedule 7 (as amended by the Anti-Terrorism Crime and Security Act 2001) which enables an examining officer to stop, search and examine a person at a port or in a border area to determine whether they are someone who is or has been concerned in the commission, preparation or instigation of acts of terrorism. All forces/services have the ability to apply these powers.

The use of these powers by the police is an operational matter for each individual force/service. However, the statutory Code of Practice for Examining Officers (please see the following link) provides guidance on the application and interpretation of these powers.

<http://tna.europarchive.org/20100419081706/http://security.homeoffice.gov.uk/news-publications/publication-search/legislation/terrorism-act-2000/Code-of-Practice-for-Examin1.pdf?view=Binary>

The revised Code that came into effect on 2<sup>nd</sup> July 2009, explains that examining officers must use the powers proportionately and in such a way as to minimise causing embarrassment or offence to the individual being questioned or examined. The Code also states that the powers to stop and question a person should not be exercised in a way that unfairly discriminates against a person on the grounds of age, race, colour, religion, creed, gender or sexual orientation. Also provided is a link to the NCP&P document entitled 'Practice advice on Schedule 7 of the Terrorism Act 2000' which provides greater detail on the use of this legislation.

[http://www.npia.police.uk/en/docs/Schedule\\_7\\_of\\_the\\_Terrorism\\_Act\\_2000.pdf](http://www.npia.police.uk/en/docs/Schedule_7_of_the_Terrorism_Act_2000.pdf)

**Question (a)(1)**

whether or not this police force records stops under this power

**Answer (a)(1)**

The response to the first part of the question is 'Yes' the Police Service of Northern Ireland (PSNI) does record 'stops' under this power because all forces/services using Schedule 7 are required to record Schedule 7 stops in certain circumstances. However the correct terminology is 'examination' not 'stop'.

**Question (a)(2)**

if so what type of stops are they?

**Answer (a)(2)**

The response to the second part of question (a) 'what type of stops are they', the answer should be 'they are Schedule 7 examinations which are described in the above links to the Codes of Practice and the NPIA documents'.

**Question (b)**

whether or not the ethnicity of such individuals are also recorded

**Answer (b)**

Question (b) – the response to this question is 'Yes'

**Question (c)**

breakdown of the number of people stopped and their ethnicity since records began.

**Question (d)**

number of people for whom fingerprints or DNA samples have been recorded

**Answer (c) and (d)**

In respect of questions (c) and (d), a Section 17(1) refusal notice applies.

Section 17(1) of the Act provides:

(1) A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which -

- (a) States the fact,
- (b) Specifies the exemption in question, and
- (c) States(if that would otherwise not be apparent) why the exemption applies.

Questions c) and d) are exempt by virtue of the following sections:

Section 24(1) (National Security)

Section 31(1) a) b) c) (Law Enforcement)

Section 38(1) a) b) (Health & Safety)

Sections 24, 31 and 38 are qualified prejudiced-based exemptions and there is a requirement to articulate the harm that would be caused in disclosing this information as well as carrying out a public interest test, both of which are outlined below.

### **Evidence of overall harm**

The threat from terrorism cannot be ignored. It is generally recognised that the international security landscape is increasingly complex and unpredictable. Since 2006, the UK Government have published the threat level, based upon current intelligence and that threat has remained at the second highest level, 'severe', except for two short periods during August 2006 and June and July 2007, when it was raised to the highest threat, 'critical', and in July 2009, when it was reduced to 'substantial'. Nevertheless, the UK continues to face a sustained threat from violent extremists.

The disclosure of the requested information (questions (c) and (d)) would undermine the use of Schedule 7 and this would consequently be detrimental to our ability to be able to deal with the on-going terrorist threat we face. By providing the number of examinations and ethnicity of those examined, or the numbers of biometric data recorded at force/service level, would allow comparison of Schedule 7 activity at different ports and enable terrorists to build a picture of what resources are in place and where they are deployed. It is felt that the disclosure of this information would prejudice the effectiveness of the national counter terrorism (CT) effort and would allow inferences to be drawn about our force/service level CT activity.

Information relating to specific regions, forces/services or, at the most damaging level, information relating to specific ports, would enable terrorists to make judgments concerning their preferred travel routes and target ports where they perceive there to be a greater vulnerability, lower staff levels and lesser probability of being stopped. The release of figures that are too detailed is likely to frustrate Intelligence Branch activity in response to changing terrorist travel patterns. Ultimately, this constant disruption would reduce the effectiveness and efficiency of Intelligence Branch port units, increase the advantage to the terrorist and increase the risk and vulnerability to the security of the UK from terrorist attack.

### **Factors favouring disclosure for S24**

The information simply relates to national security and disclosure would not actually harm it. The public are entitled to know how public funds are spent and by disclosing this information the public would be able to see where public money is being spent and know that forces/services are doing as much as they can to combat terrorism.

### **Factors favouring non-disclosure for S24**

By disclosing this information would render security measures less effective. This would lead to the compromise of ongoing or future operations to protect the security or infra-structure of the UK. The risk of harm to the public would be increased if the location of vulnerable areas of the UK were made public as this would provide opportunity for terrorist planning. Ongoing or future operations to protect the security or infrastructure of the UK would be compromised as terrorists could map across the country the level of CT activity, giving them the knowledge of policing capabilities.

### **Factors favouring disclosure for S31**

By disclosing the information the public would see where public funds are being spent and would be able to take steps to protect themselves and their families. Better public awareness may reduce crime or lead to more information from the public as they would be more observant in reporting suspicious activity.

### **Factors favouring non-disclosure for S31**

By disclosing the information law enforcement tactics would be compromised which would hinder the prevention and detection of terrorist crime. More crime would be committed because the terrorists would know which forces/services had less CT capability and capacity and individuals would therefore be placed at higher risk. A fear of crime would be realised because if the terrorists identified 'softer' border entry points, they would target and exploit these areas and the public would

be in fear of more terrorist activity occurring. There would be an impact on police resources because if the number of Schedule 7 stops was disclosed per force/service, the more vulnerable policing areas may need to increase their resources to reassure and protect the community.

### **Factors favouring disclosure for S38**

The public are entitled to know what areas of criminal activity the police service allocate public funds to therefore disclosing this information, would lead to better informed public awareness and debate. Disclosure of the information would assist communities to be more aware of the level of protection afforded to them.

### **Factors favouring non-disclosure for S38**

By disclosing the information the risks to individuals would be significant and there would be a loss of confidence in the police to protect the well-being of the community.

### **Balance test**

The security of the country is of paramount importance and the police service will not divulge information if to do so would place the safety of an individual at risk or undermine national security. Whilst there is a public interest in the transparency of policing operations and in this case providing assurance that the police are appropriately and effectively engaging with the threat posed by a terrorist attack, there is a very strong public interest in safeguarding both national security and the integrity of police investigations and operations in the highly sensitive area of terrorism. As much as there is public interest in knowing that policing activity is appropriate and balanced in matters of national security this will only be overridden in exceptional circumstances. Schedule 7 and other CT measures are high-profile sensitive issues which are of intelligence value to the terrorist and therefore it is our opinion that for these issues the balancing test for disclosing the information requested is not made out.

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 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.