



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

FREEDOM OF INFORMATION REQUEST



Request Number: F-2010-01520

Keyword: Crime

Subject: Winthroping

Request and Answer:

Question

I am submitting an FOI request to obtain any pertinent information relating to "winthroping". This is a geographic search technique which I believe originated in the British Army's security role in Northern Ireland, specifically in the searching for concealed weapons caches belonging to the IRA. From speaking with several police practitioners, I understand that this methodology may be in use within PSNI.

I am interested in any training materials, experimental methodologies, case studies, internal memos or other documentation which can shed light on the origins, development, application and refinement of this particular method.

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 23 (5) – Information supplied by, or concerning, certain security bodies
Section 24 (2) – National security
Section 31 (3) – Law enforcement

Section 23 is an absolute class-based exemption and therefore there is no requirement to conduct a harm or public interest test.

Sections 24, and 31 are prejudice based qualified exemptions and there is a requirement to articulate the harm that would be caused in confirming or not that the information is held as well as carrying out a public interest test.

HARM TEST

By confirming or denying that the PSNI hold any information regarding Winthroping would in itself disclose exempt information. Stating information is held would confirm usage and the opposite if there is no such information. Although the technique itself is not sensitive, as its history and origins are a matter of public record, it is how and when it might be used and what could be found, that are the sensitive issues for the police service. Confirmation or denial that this system is used would allow criminals to take action to overcome the search method being deployed in a particular case, but only if they are aware of the options available to us. Any disclosure under FOIA is a disclosure to the world at large, and confirming or denying the use of a specialist technique, would cause the effect outlined above.

This detrimental effect is increased if the request is made to several different law enforcement bodies. In addition to the local criminal fraternity now being better informed those intent on organised crime throughout the UK will be able to 'map' where the use of certain tactics are or are not deployed. This can be useful information to those not just committing crimes of dishonesty but also drugs and terrorist activities.

For example, to state that no information is held in one area and then exempt information held in another, would itself provide acknowledgement that the technique has been used at that second location. This could have the likelihood of identifying location-specific operations, enabling individuals to become aware of whether their activities have been detected. This in turn could lead to them moving their operations, destroying evidence, or avoiding those areas, ultimately compromising police tactics, operations and future prosecutions.

Any information identifying the focus of policing activity could be used to the advantage of terrorists or criminal organisations. Information that undermines the operational integrity of these activities will adversely affect public safety and have a negative impact on both national security and law enforcement.

PUBLIC INTEREST TEST

Factors Favouring Confirmation Or Denial 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 confirming the use of specialist tactics could lead to a better-informed public that can take steps to protect themselves.

Factors Against Confirmation Or Denial For S24 – By confirming or denying the use of a specialist technique could render Security measures less effective. This could lead to the compromise of ongoing or future operations to protect the security or infra-structure of the UK and increase the risk of harm to the public.

Factors Favouring Confirmation Or Denial For S31 - By confirming or denying when or whether a specialist technique is used by PSNI, would enable the public to see where public funds are being

spent. Better public awareness may reduce crime or lead to more information from the public.

Factors Against Confirmation Or Denial For S31 - Law enforcement tactics could be compromised which could hinder the prevention and detection of crime. More crime could be committed and individuals placed at risk.

Balance Test - The security of the country is of paramount importance and the Police service will not divulge whether information is or is not held if to do so could undermine National Security or compromise law enforcement. Whilst there is a public interest in the transparency of policing operations and in this case providing assurance that the police service is appropriately and effectively engaging with the threat posed by the criminal fraternity, there is a very strong public interest in safeguarding both national security and the integrity of police investigations and operations in this area.

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. Therefore it is our opinion that for these issues the balancing test for confirming or denying the use of Winthroping is not made out. This argument is obviously transferable to all police tactics.

There is also no requirement to satisfy any public concern over the legality of police operations and the tactics we may or may not use. The force is already held to account by statute, for example the Police and Criminal Evidence Act and the Regulation of Investigatory Powers Act and independent bodies such as Her Majesty's Inspectorate of Constabulary, the Police Ombudsman for NI and the Independent Police Complaints Commission. Our accountability is therefore not enhanced by confirming or denying that any information is held.

None of the above can be viewed as an inference that the information you seek does 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.

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.