



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2011-00305

**Keyword:** Crime

**Subject:** Arson Attack at Ballynure Service Station

### Request and Answer:

#### Question 1

Re: Ballynure Service Station, 3 Larne, Ballynure  
Arson attack on the 20th June 2000

I refer to the above and confirm that I was the legal and equitable owner of the above Service Station on the above date and would request to be supplied with the following information under the Freedom of Information Act 2000.

1. What reports, information do you have in relation to the following concerning either Ballynure Service Station and/or (named person):-
  - (i) Drive offs?
  - (ii) Burglaries?
  - (iii) Shootings?
  - (iv) Threats?
  - (v) Demand for protection money?
  - (vi) Harrassment and when these reports and/or information received?

#### Question 2

What information is known to the Police about the involvement of paramilitary organisations in the Ballynure area, in particular the demand for 'protection money' from local people/businesses from the UDA and/or the UVF?

#### Question 3

Who was involved in carrying out the investigation into the arson attack at the above Service Station on the 20th June 2000?

#### Question 4

What investigations were carried out into the alarm system (SCAN Alarms) from whom and what information was obtained in relation to the arson attack on the 20th June 2000?

### **Question 5**

Where any statements obtained from whom when and in relation to what matters relating to the original investigation of the arson attack on the 20th June 2000?

### **Question 6**

What conclusions were reached about the evidence received on the fire and on what basis was the decision made by the Chief Constable to decline to issue a certificate for the purpose of a claim for compensation under the Criminal Damage (Compensation) NI Order 1977?

### **Question 7**

What were the findings in the report of the Fire Officer and what conclusions were reached about the cause of the fire?

### **Question 8**

What investigation were carried out in respect of the availability of any CCTV footage:-

- (i) From whom?
- (ii) What information was obtained about the availability of the CCTV footage?
- (iii) What is recorded about requests for receipt of CCTV footage?

### **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 30 (3) Investigations and Proceedings Conducted by Public Authorities
- Section 31 (3) Law Enforcement
- Section 38 (2) Health and Safety
- Section 40 (5) Personal Information

Neither confirm nor deny is needed to protect any harm, which may arise if the Police Service of Northern Ireland has to confirm or deny it holds particular information. In some situations, simply to confirm or deny whether a particular category of information is held could in itself disclose sensitive or damaging information.

Section 23 is an Absolute Exemption and does not require a harm or public interest test. Compliance

with Section 1 would involve the disclosure of information which, if held, may have been supplied, directly or indirectly by security bodies.

Sections 24, 31 and 38 are prejudiced based, qualified exemptions and, as such, they are all subject to harm and public interest tests.

Section 30 is a classed-based, qualified exemption and is subject to a public interest test.

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 relate to any individuals concerned. Simply to confirm the existence of the requested information would amount to a release of that personal information into the public domain, and this would be a breach of the Data Protection Act.

### **Harm Test Section 24**

To confirm or deny whether the PSNI hold such information would enable those engaged in criminal or terrorist activity to identify the focus of policing intelligence or activity.

### **Harm Test Section 31**

The confirmation or denial of the existence of the information requested would also reveal policing tactics regarding who was of interest to the police generally. This could be to the detriment of providing an efficient policing service and a failure in providing a duty of care to all members of the public.

### **Harm Test Section 38**

Disclosures under the Freedom of Information Act are disclosures to the world, not just to the individual making the request. To confirm that information relating to Ballynure Service Station is held, even if that information was exempted, or to confirm no information is held, would provide intelligence to criminals about the status of a police investigation. Such awareness would seriously undermine the PSNI's ability to protect the community and place individuals at risk.

### **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. Any confirmation or denial that the PSNI holds such information would allow the public to gauge the appropriate use of public funds in carrying out their national security investigations. In addition it would provide appropriate transparency and reassurance that investigations are effectively carried out subsequently researched in order to provide valuable intelligence/information.

#### **Factors against confirmation or denial for S24 –**

Confirming or denying whether PSNI hold information of this nature 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 and increase the risk of harm to the public. Confirmation or denial in this particular case would present a high risk in that it would reveal whether PSNI held intelligence in relation to terrorist activity in the Ballynure area. Those responsible for crime would be able to act on the information released, thereby jeopardising security as they would be able to identify whether their actions have been detected and whether links have or have not been made with previous incidents. In some cases it is possible that such analyses may be assisted by intelligence supplied by one or more of the bodies listed at section 23(3) of the Act. Sections 23(5)

and 24(2) are therefore cited in conjunction to protect the involvement or non-involvement of security bodies

Factors favouring confirmation or denial for S30 –

The release of such information would provide an insight into the police service and enable the public to have better understanding of effectiveness of the police. The release of information could allow the public to make informed decisions about police procedures and the money spent in this business area. This would greatly assist in the quality and accuracy of public debate, which would otherwise likely be steeped in rumour and speculation.

Factors against confirmation or denial for S30 –

Confirming or denying whether crime has been reported as having occurred at this premises, or whether specific individuals or groups are of interest would hinder the prevention or detection of crime. This would impact on police resources and more crime would be committed, placing individuals at risk.

Factors favouring confirmation or denial for S31 –

By confirming or denying whether this information is held 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.

Factors against confirmation or denial for S31 –

By confirming or denying whether this information is held, law enforcement tactics would be compromised which would hinder the prevention and detection of crime. More crime would be committed and individuals would be placed at risk..

Factors favouring confirmation or denial for S38 –

The public are entitled to know what areas of criminal activity the police service allocate public funds therefore by confirming or denying the provision of protection, would lead to better informed public awareness and debate. Confirmation or denial would assist communities to be more aware of the level of protection afforded to them.

Factors against confirmation or denial for S38 –

By confirming or denying whether this information is held, the risks to individuals are significant and evidenced and there would be a loss of confidence in the police service to protect the well-being of the community.

Factors Favouring Confirmation or Denial for Section 40

Confirmation or Denial of the existence of the requested information would enable the public to have a better knowledge of what information is recorded by PSNI and therefore a better understanding of the decision making process when it comes to the disclosure of personal details.

Factors Against Confirming or Denying Section for 40

To confirm or deny that the requested information is held would amount to the processing of personal information in breach of the Data Protection Act and requests for such information should be made under that legislation.

**Decision**

Whilst there is a public interest in the transparency of the use of public funds and the accountability of the Service, there is also a strong public interest in maintaining confidence in the PSNI with regard to its handling of individual's personal data. The PSNI should not process such personal data in breach of the DPA in order to satisfy any request under FOI and the exemption under Section 40(5)(a) of the Freedom of Information Act exists for this purpose. Irrespective of whether

information is or is not held, public safety and the ability to deliver effective law enforcement is also of paramount importance to the Police Service. Confirmation or denial of whether information is held would undoubtedly compromise both national security and investigations and undermine law enforcement and investigative processes.

Therefore, at this moment in time, it is our opinion that for these issues the balancing test for confirming whether or not any information is held by PSNI is upheld.

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

For your information I have attached a link below to a subject access request form which should be completed when a member of the public seeks access to his or her own personal data. It should be noted however that the provision of this link is not confirmation that any relevant information is held and that if any information is held, it may be subject to exemptions under the Data Protection Act.

<http://www.psni.police.uk/dat.pdf>

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.