



FREEDOM OF INFORMATION REQUEST



Request Number: F-2011-01263

Keyword: Crime

Subject: Behaviour recorded by children under 10 years of age

Request and Answer:

I am writing to confirm that the Police Service of Northern Ireland has now completed its search for the information.

I have today decided to:

- disclose information in response to question 1 in full;
- fully exempt records in relation to question 2 pursuant to the provisions of Section 38 (a) and (b) of the Act and Section 40(2)(a)(b)

Question 1

In the 2010/2011 financial year how many crimes were committed in your area where the offender was aged 9 or under?

Answer

There were 5 crimes committed where the offender was aged 9 or under in the 2010/2011 financial year.

The information provided has been extracted from databases maintained by the PSNI Community Safety branch. These figures have been recorded for internal use only and should not be used as a comparison with any other police service.

Question 2

If possible please provide a breakdown of these offences showing the nature of the crime, the age of the offenders and the town or area where the offence was committed?

Answer

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.

It has been decided not to release details of the area where the offences occurred.

The exemption/s, as well as the factors the Department considered when deciding where the public interest lies, are listed below:

Section 38 (a) and (b) – Health and Safety

Section 40 (2) (a) and (b) by virtue of Section 40(3) (a)(i) – Personal Information

Section 38 Health and Safety is a prejudiced based exemption which means the PSNI, must demonstrate that it is satisfied that to release the information would be likely to endanger the physical or mental health of any individual.

It is also a qualified exemption which means the PSNI must consider the balance of the public interest in releasing the information against the public interest in withholding it.

A summary of the Harm and Public Interest Test considerations for Section 38 is provided below:

Harm Test Section 38

Disclosure of the towns/areas where the offenders reside may put these individuals at risk and impact on their safety. To disclose age, offence and the town/area where each offence occurred may make it easier to ascertain the identities of these five children in combination with information already in the public domain. Disclosure of these details may put the children at risk of reprisals and impact on their safety.

Public Interest Test Section 38

Factors Favouring Release

Releasing the information would promote openness and transparency. The public would be better informed of the number of persons under the age of 9 committing behaviours / crimes in their area.

Factors Favouring Retention

Releasing the towns/areas of where these children reside and the type of behaviours / crimes they have committed into the public domain may assist any criminal elements to carry out attacks on these children and/or members of their families. PSNI will therefore not release any information which may endanger a child's safety.

Decision

I have determined that to release the towns/areas where these behaviours / crimes were committed into the public domain may increase the risk of possibly identifying where the children reside if combined with the type of behaviours / crimes they have committed and therefore this would not be in the public interest. The safety of children is of paramount importance and the PSNI will not divulge any information which could put lives at risk.

The Police Service will not disclose information if to do so would undermine the prevention or detection of crime, the apprehension or prosecution of offenders and the administration of justice.

Release of the breakdown of information which you have requested for only five children may put vulnerable young people at risk of attack within their community.

Therefore, at this time, it is our opinion that for these reasons the information should not be disclosed into the public domain.

Section 40 Personal Information is a Class – based exemption, therefore it is not necessary to evidence the harm caused by disclosure. The data protection rights of a third party would be breached by disclosure, therefore Section 40(2) is an Absolute exemption and a Public Interest Test is not necessary. This is so because personal data is governed by other law (The Data Protection Act 1998).

All requests made under FOIA are applicant blind. A request must be treated as such and a public authority will always view any disclosure as into the public domain and not just to an individual.

Personal Data is regulated under the principles of the Data Protection Act 1998 and when information contains personal data about a third party it can only be released if disclosure would not breach any data protection principles.

Principle 1 is that personal data must only be processed lawfully and fairly.

The Service has a duty to protect the personal data of all individuals and therefore, in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

A person below the criminal age of responsibility (ten years) cannot be charged or prosecuted for a criminal offence.

GUIDANCE: In all those instances where a child under 10 years has been detected for behaviour that would otherwise be described as criminal, specially-trained Police Youth Diversion Officers will become involved. Support / intervention programmes will be considered, as well as the notification of statutory partners such as social Services if appropriate, with the agreement and consent of parent / guardian. Cases will be monitored over a period of time to ensure no further repetition of such behaviour or indeed no further risk is identified to the child or others.

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.psnipolice.uk

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