



FREEDOM OF INFORMATION REQUEST



Request Number: F-2011-03684

Keyword: Crime

Subject: Guns etc Connected to Northumbria Investigation

Request and Answer:

I am requesting information under FOIA and also all other rights of access concerning 2 handguns and also thirty eight rounds of live ammunition. I understand all of the above were sent to the RUC by Northumbria Police in 1999.

I also understand that the RUC (Weapons and Explosions Research Centre) sent both handguns (and the ammunition) for ballistic examination.

Question 1

Please supply all information known to the PSNI, RUC and also HMG concerning the 2 handguns and also the thirty eight rounds of live ammunition.

Question 2

Please also supply copies of all ballistic reports and all information and findings concerning all tests of both guns and ammunition.

As well as the above I am also requesting all information concerning the following:

Question 3

All information known to RUC, PSNI and HMG concerning either of the handguns being used in shootings, including murders, in Ireland (Including Northern Ireland).

Question 4

All information known to RUC, PSNI and HMG concerning the 38 rounds of live ammunition, including has the same ammunition (or similar) ever been used in any shootings or murders, in Ireland (Including Northern Ireland).

Question 5

All information known by RUC, PSNI and HMG on either of the handguns being connected to shipments of weapons that had been sent to the IRA from Gaddafi's Libya.

Question 6

All information known to RUC, PSNI and HMG concerning the 38 rounds of live ammunition,

including any information know regarding ammunition being homemade.

Question 7

All information known to RUC. PSNI and HMG concerning the 38 rounds of live ammunition, including if this ammunition was same (or similar) to that supplied in shipments of weapons/ammunition that which was supplied to the IRA from Gaddafi's Libya.

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(1) 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:

Absolute Exemption
Section 40 (5) Personal Information

Section 40 is an absolute exemption however; Section 40 (5) is considered class based qualified exemption which means I am required to conduct a public interest test in relation to its usage in neither confirming nor denying the existence of any information.

Public Interest Test

Section 40 (5) Personal Information - Factors favouring confirmation or denial

Confirmation or denial of whether information is held would provide the public with an awareness of what personal information is held.

Section 40 (5) Personal Information - Factors against confirmation or denial

If confirmation or denying that other information is held has the potential to identify an individual this would be a clear breach of 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 they would reasonably expect.

Balance Test

I am obliged to weigh up the above factors in order to determine whether the public interest lies in maintaining a neither confirm nor deny stance. In this case, the public benefit in being more aware is outweighed by the potential risk to individuals and investigations.

The PSNI has therefore determined that in all the circumstances of the case the public interest in maintaining the exclusion of the duty to neither confirm nor deny outweighs the public interest in confirming whether or not information is held.

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

It is considered that it would be inappropriate to disclose sensitive personal data under the Freedom of Information Act (FOIA) as this is considered a release to the world in general and not just to an individual applicant. Therefore, Section 40 Personal Information is the appropriate FOI exemption to apply in respect of the information that you have requested.

However, you may wish to request the information you require under Section 7 of the Data Protection Act 1998. This legislation allows a right of access to personal or sensitive personal data held by the PSNI Data Controller.

The Data Protection Act 1998 sets out that a request must be made in writing and a £10 fee provided along with information which allows the PSNI Data Controller to satisfy himself as to the identity of the person making the Subject Access Request.

I have enclosed the web link below for your information:

<http://www.psnipolice.uk/dat.pdf>

PSNI require that the DAT1 is completed, copy identification information such as a passport or driving license and a fee of £10 payable by cheque or postal order is provided. The Data Controller is not obliged to comply with the legislation unless he is supplied with the items detailed.

It should be noted however that the provision of this form 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.

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.