



FREEDOM OF INFORMATION REQUEST



Request Number: F 2011 01965

Keyword: Crime

Subject: Recruitment of CHIS

Request and Answer:

Question 1

The PSNI's policy in recruiting informants.

Question 2

The PSNI's guidelines in dealing and managing their informants.

Question 3 (a)

The PSNI's policy and

Question 3 (b)

guidelines in recruiting juvenile informants.

Question 4

How many active informants are currently in operation under the PSNI, (and)

Question 5

What pre-recruitment considerations are given before attempts is made to recruit an informant?

Answer

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

I have today decided to

- disclose information in response to question 1 and 3 (a),
- fully exempt information in response to questions 2, 3 (b) and 5 pursuant to the provisions of Section 24 (1) and Section 31 (1) (a) (b) (c) of the Act,
- fully exempt information in response to question 4 pursuant to the provisions of Section 24 (1) and Section 30 (2)
- and neither confirm nor deny any further information pursuant to the provisions of Section 23 (5) and Section 24 (2) of the Act.

Answer to question 3 (a)

You can access Policy Directive 06/05 PSNI Child Protection Policy by clicking on the below link:

http://www.psni.police.uk/policy_directive_0605-2.pdf

Answer to question 1

PSNI do not however, have a policy on recruiting other Covert Human Intelligence Sources (CHIS) therefore no information is held. However, PSNI complies with the requirements of the Regulation of Investigatory Powers Act, 2000 (RIPA), the Human Rights Act, 1998 (HRA), the ACPO Manual of Standards for the Use of CHIS and the National Intelligence Model.

<http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/code-practice-human-intel?view=Binary>

Answer to questions 2 and 5

Section 17 (1) of the Freedom of Information Act 2000 requires the PSNI, 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.

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

Qualified Exemptions

Section 24 (1) National Security

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

Sections 24 and 31 are prejudice based qualified exemptions which means that the legislators have identified that the harm (prejudice) in disclosure as well as the public interest considerations need to be evidenced and articulated to the applicant.

Overall harm for Section 31 and Section 24 (for questions 2, 3 (b) and 5)

Modern day policing is intelligence led and it is a well-known fact that CHIS are used in the prevention of terrorism and they are a valuable intelligence tool in the fight against all types of crime. Any disclosure under FOI is a disclosure to the world so providing this information to a wider audience would hinder the prevention and detection of crime. By disclosing for instance, the guidelines on recruiting juvenile CHIS or the pre-recruitment considerations, would seriously hinder the recruitment and retention of CHIS which in turn, would undermine the policing process and lead to less intelligence. Disclosure of the sensitive information on how CHIS are managed, would enable criminals to counteract police intelligence-gathering methods which would ultimately expose police tactics, jeopardise police operations and future prosecutions. This would be to the detriment of providing an efficient policing service and would compromise the key policing roles of preventing and detecting crime and protecting the public at large. Disclosure of information that undermines the operational integrity of police activities will adversely affect public safety and have a negative impact on law enforcement.

Factors favouring disclosure for Section 31

Disclosure of the information would create better public awareness which may reduce crime or lead to more information from the public and, some information is already in the public domain.

Factors favouring non-disclosure for Section 31

Disclosure of the requested information would hinder the prevention and detection of crime and law enforcement tactics would be compromised. This would impact on police resources which would lead to more crime being committed and individuals being placed at risk.

Factors favouring disclosure for Section 24

The public are entitled to know what public funds are spent on and a better informed public can take steps to protect themselves.

Factors favouring non-disclosure for Section 24

Disclosure of the information would render security measures less effective and ongoing or future operations to protect the security of the UK would be compromised

Balance test

Although there is public interest in knowing how the police conduct their core business, the safety of the public and the prevention and detection of crime is paramount, and the police service will not disclose information that compromises law enforcement or undermines police tactics.

The sensitive issue of the management of CHIS and the potential difficulties in recruiting and retaining CHIS, outweighs the public interest in knowing about police procedures. It is therefore our opinion that for these issues, the balance lies in favour of the non-disclosure of the requested information.

Answer to question 4

The above Harm and Public Interest considerations in respect of Section 24 (1) also apply to question 4. Additionally Section 30 (2) is also engaged and the Public Interest considerations for Section 30 (2) are outlined below:

Section 30 Investigations and Proceedings conducted by the public authority is a class based qualified exemption which means that the legislators have identified that the public interest considerations need to be evidenced and articulated to the applicant.

Section 30 Public Interest Considerations

Factors favouring disclosure for Section 30

There is information within the public domain confirming that police use CHIS to assist them with investigations and the effective delivery of law enforcement. Disclosure would enhance the public's knowledge about how information relating to CHIS is used by the PSNI and how the intelligence received assists in day to day investigations and operations to assist with the prevention and detection of crime; the apprehension and prosecution of offenders and the administration of justice. Disclosure would also assist in stopping any incorrect rumours or falsehoods relating to how the police store and manage how CHIS assist the police.

Factors favouring non-disclosure for Section 30

Disclosure of the information requested could identify CHIS activity within PSNI.

Over a period of time if several disclosures were made, individuals could analyse the information and identify any sudden peaks or troughs in CHIS activity. This would hinder the prevention and detection of crime and also prejudice our ability to maintain confidential sources. Consequently, the PSNI's future law enforcement capabilities would be affected.

Balancing Test

There is information within the public domain confirming that police use CHIS to assist them with investigations and the effective delivery of law enforcement. The Police Service is tasked with protecting the community we serve and solving crime and there is a public interest argument in ensuring we are open and transparent with regard to policing investigations and operations. There is no doubt that for the issues outlined above any disclosure relating to sensitive CHIS information would jeopardise those important roles.

As has been mentioned, CHIS play a vital role in assisting the police and is based very much on relationships built on trust and the expectation of complete confidentiality PSNI would never disclose information which would compromise our tactics.

It is therefore our opinion that the balance lies in favour of non-disclosure of the information.

Additionally, the PSNI can neither confirm nor deny that they hold any other information relevant to the whole of your request by virtue of the following exemptions:

Section 23(5) Information relating to security bodies listed at Section 23 (3)

Section 24(2) National Security

Section 23 of the Act states:

23 Information supplied by, or relating to, bodies dealing with security matters

(5) The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would involve the disclosure of any information (whether or not already recorded) which was directly or indirectly supplied to the public authority by, or relates to, any of the bodies specified in subsection (3).

This is an absolute exemption and I am therefore not required to complete a public interest test.

Section 24 National security

(1) Information which does not fall within section 23(1) is exempt information if exemption from section 1(1)(b) is required for the purpose of safeguarding national security.

(2) The duty to confirm or deny does not arise if, or to the extent that, exemption from section 1(1)(a) is required for the purpose of safeguarding national security.

The police service works in partnership with other agencies in order to combat issues such as terrorism and organised crime. As such, information may sometimes be provided by bodies listed at section 23(3). In this case, I am unable to confirm or deny whether the PSNI hold any other information relevant to your request and sections 23 (5) and 24(2) are cited in conjunction to protect the involvement or non-involvement of bodies listed at section 23(3).

Section 23(5) is an absolute exemption and as such no public interest test is required. Section 24(2) is a qualified exemption and as such there is a requirement to complete a test of the public interest in confirmation or denial.

Harm for neither confirming nor denying that any other information is held for Section 24

Disclosure of CHIS data could impact on the recruitment and retention of CHIS in general, due to the perception of (rather than the actual) risk of identification.

In a recent Information Tribunal case relating to the payments made to CHIS in Croydon (EA/2010/0006), it was accepted that this argument applied as much to CHIS providing intelligence in relation to national security concerns as to CHIS engaged in countering more traditional criminal threats. In this way, the disclosure of payment information would damage national security through discouraging current national security CHIS from cooperating with the police service in other geographical areas, or preventing the recruitment of national security CHIS in the future – regardless of whether the area in question actually currently runs CHIS reporting on serious crime, terrorist or other threats.

Public Interest test for Section 24

Factors favouring confirming or denying that any other information is held for Section 24

Confirmation or denial that any other information exists relevant to the request would lead to a better informed public and the public are entitled to know how public funds are spent. The information

simply relates to national security and disclosure would not actually harm it.

Factors against confirming or denying that any other information is held for Section 24

Other organisations outside the police service are also widely engaged in rewarding CHIS in a number of ways, and therefore by confirming or denying that any other information exists relevant to the request would harm the close relationship that exists with such organisations, where trust and confidence in this specific area has been built up in the exchange of information and financial assistance during the Criminal Justice process.

To confirm or deny whether PSNI hold any additional information would allow inferences to be made about the nature and extent of national security related activities which may or may not take place in a given area. This could enable terrorist groups to take steps to avoid detection, and as such, confirmation or denial would be damaging to national security.

By confirming or denying any policing arrangements of this nature would render national security measures less effective.

This would lead to the compromise of ongoing or future operations to protect the security or infrastructure of the UK and increase the risk of harm to the public.

Balance test for Section 24

The Police Service is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. 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 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 providing assurance that the police service is appropriately and effectively engaging with the threat from criminals, there is a very strong public interest in safeguarding both national security and the integrity of police investigations and operations in this highly sensitive 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. It is therefore our opinion that for these issues the balancing test for confirming or not that any other information is held, is not made out

Section 16 Advice and Assistance

You may find the following information useful:

<http://www.npia.police.uk/en/9015.htm>

<http://www.legislation.gov.uk/ukpga/2000/23/contents>

http://www.psni.police.uk/policy_directive_01-11.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.

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.