



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

FREEDOM OF INFORMATION REQUEST



Request Number: F-2011-00173

Keyword: Operational Policing

Subject: RTC Involving Police Car in Francis Street

Request and Answer:

Question 1

I am seeking information on an RTC involving a police car and a Volkswagen Passat in Francis Street, Derry, at approximately midnight on Tuesday, January 11/Wednesday, January 12, 2011.

Can I have a copy of the police report of the accident?

Was the police vehicle in pursuit of a third vehicle at the time of the accident?

Which vehicle caused the accident - the police vehicle or the Passat?

Is the PSNI seeking a prosecution?

Is the driver/passenger of the Passat seeking a prosecution?

Has compensation been paid to the driver/passenger of the Passat?

Will compensation be paid to the driver/passenger of the Passat?

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 40(5)(b)(i) – Personal Information
Section 30(3) - Investigations

Section 40(5) – Personal Information

The release of information under Freedom of Information is a release into the public domain, and not just to an individual. To confirm that the PSNI hold the requested information would in fact amount to a release into the public domain, of personal information about individuals involved in the RTC. The individuals would have no expectation that these details would be released into the public domain, therefore their data protection rights would be breached by release.

Although Section 40 is an absolute class-based exemption, a Public Interest Test is required for the purposes of NCND

Section 30(3) - Investigations

This is a class based and qualified exemption. If the information were held it must fit into the class of information covered by this exemption. If the information were held it would be held for the purposes of investigation to determine whether an offence has been committed and therefore clearly falls within the class of information provided by this exemption.

Confirming or denying that the PSNI holds any information in relation to investigations it may or may not have conducted will undermine any current investigations or pending Court proceedings by alerting those who may be suspected of offences.

As section 30 is qualified exemption a public interest test is necessary.

Public Interest Test

Factors Favouring Confirmation Or Denial – Section 40

Confirming or denying whether the PSNI hold this information would aid accountability in that the public could see what action is or is not taken by police when an incident such as this is reported by a member of the public.

Factors Against Confirmation Or Denial – Section 40

The breach of individual's data protection rights would be caused by confirmation or denial.

Factors Favouring Confirmation Or Denial – Section 30

Confirming the existence of information would show that the PSNI conducted an investigation, which the public would expect.

Factors Against Confirmation Or Denial – Section 30

An investigation if unknown could be compromised and it could hinder the prevention or detection of crime.

Balance Test

Confirmation or denial of whether the PSNI hold information of this nature would amount to a release of information about individuals. Whilst the PSNI would always wish to be transparent and accountable, no release under FOI should be made where an individual's data protection rights would be breached. Not only would this be a breach of Data Protection legislation by the PSNI, but it would also leave the PSNI open to action against it by individuals concerned.

At this time the potential harm to current and future investigations outweighs any public benefit in knowing if any additional information is, or is not held. Police Officers are held to public account for their actions, including how matters are investigated, by the PSNI Code of Ethics and/or in some cases by the Police Ombudsman for Northern Ireland. There is no further tangible community benefit in complying with section 1(1)(a) of the Act at this time.

The Public Interest therefore must favour neither confirming nor denying that the information is held on this occasion.

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

Question 2

How many police vehicles were involved in RTC's in G District over the past three years? What were the circumstances?

How many of these RTCs - if any - occurred whilst the police were in pursuit of a suspect?

Answer

Section 17(5) of the Freedom of Information Act 2000 requires the Police Service of Northern Ireland, when refusing to provide such information (because the cost of compliance exceeds the appropriate limit) to provide you the applicant with a notice which states that fact.

It is estimated that the cost of complying with your request for information would exceed the "appropriate costs limit" under Section 12(1) of the Freedom of Information Act 2000, which is currently set by the Secretary of State at £450. To provide details of the circumstances where police vehicles were involved in RTC's and police pursuits in G District over the past three years would require a manual trawl of the Command and Control system and/or a manual trawl of paper Health and Safety records. It is estimated that this process would take in the region of 48 hours for the three years requested.

In accordance with the Freedom of Information Act 2000, this letter should be considered as a Refusal Notice, and the request has therefore been closed.

You may wish to submit a refined request in order that the cost of complying with your request may be facilitated within the 'appropriate limit'. In compliance with Section 16 of the Act, I have considered how your request may be refined to bring it under the appropriate limit. It may be possible to retrieve the statistics without the additional detail regarding circumstances for the period requested. Alternatively, it may be possible to retrieve details of the circumstances of such RTCs over a proportionately reduced timescale.

Submission of a refined request would be treated as a new request, and considered in accordance with the Freedom of Information Act 2000, including consideration of relevant Part II exemptions.

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.