



## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2011-02539

**Keyword:** Organisational Information/Governance

**Subject:** Missing Personal Details Of Trainee Police Officers

### Request and 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 questions 1, 2 and 6 in full; and
- fully exempt information in response to:  
question 3 pursuant to Section 44 of the Act.  
questions 4 and 7 pursuant to the provisions of Sections 31 and 38 of the Act.
- Neither Confirm nor Deny that the PSNI holds the information relevant to question 5 as the duty in Section 1(1)(a) of the Freedom of Information Act does not apply by virtue of the following exemptions: Section 23(5), Section 24(2), Section 30(3) and Section 31(3)

### Question 1

On how many occasions have the personal details of trainee police officers gone missing?

### Question 2

On how many occasions have the personal details of qualified police officers gone missing?

Clarification: Over the last five years is the timescale for this  
Specifically I am asking about details of home addresses, telephone numbers and car registrations being leaked outside the PSNI.

### Answer

I have been advised that over the last 5 years there have been 2 occasions relating to unlawful disclosure of personal data by police officers or support staff.

### Question 3

Of those whose details went missing, how many were Protestant and how many were Catholic?

### Answer

Section 17 (1) 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.

Section 44(1)(a) - Prohibitions on disclosure

Information is exempt information if its disclosure (otherwise than under this Act) by the public authority holding it, is prohibited by or under any enactment.

This is an absolute, class based exemption and this means the legislators have agreed that there would be Harm if this information was released.

The community background information of employees within the PSNI is gathered and retained for monitoring purposes only, in accordance with the Fair Employment (Monitoring) Regulations (NI) 1999. In particular Part III 16 (2) of the above Regulations states that it is an offence to disclose the community background determination of individual employees, and as a result the information requested cannot be provided. To release the community background information at the level requested could reveal personal, sensitive information and the organisation would then be in breach of the above Regulations.

Consequently the exemption is engaged and the information cannot be released.

#### **Question 4 (a) and (b)**

(a) How many threats were discovered against recruits, (b) how many of these threats were against Protestant trainees and how many against Catholic trainees.

#### **Answer 4(a) and (b)**

To reveal anything below the total numbers (of all known threats), is a risk and it is therefore inappropriate to specify types or groups of individuals under threat.

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- (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 31(1)(a)(b) Law Enforcement

Section 38(1)(a)(b) Health and Safety

Sections 31 and 38 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.

#### **Harm**

The release of information under FOI is a release of information to the world and not just to you the

individual. The geographical size of Northern Ireland is reasonably small and therefore to release information would have an impact on our core policing objectives i.e. to prevent and detect crime. Thus breaching the PSNI's law enforcement techniques, methods and tactics.

Disclosure has the possibility of increasing the risk of persons who have had either a PM1 (police message form) or a TM1 (service of a threat) issued to them being identified. From the release of the requested information in question 4 (a) and (b), those involved in criminality could be likely to draw a meaningful conclusion from a breakdown of the number of PM1 and TM1 forms issued by the PSNI, if it was broken down in the way in which you have requested. This, coupled with any information already known could lead to the identification of an individual and could place the individual at risk. The slightest indication or evidence confirming, to those involved in criminality, that their suspicions would be enough for them to justify taking unlawful action against individuals who have been issued with a PM1 or TM1 threat to life notice. In some cases this may lead to intimidation or in extreme cases murder. This argument is further confirmed by the current threat level in Northern Ireland which currently is SEVERE.

## **Public Interest Test**

### **Section 31**

#### **Factors favouring disclosure**

The release of information in relation to the number of PM1 and TM1 forms issued by the PSNI, broken down to a level you have requested may be of interest to the public. The actions of the PSNI, particularly in relation to crime detection require an appropriate application of legislation.

#### **Factors favouring non-disclosure**

The Police Service has a duty to deliver effective law enforcement ensuring the prevention and detection of crime and the apprehension or prosecution of offenders is carried out appropriately. For this reason it is considered that the release of the number of PM1 and TM1 forms issued by the PSNI to recruits is better served by non disclosure as to reveal this level of detail, no matter how generic, would compromise effective law enforcement issues.

### **Section 38**

#### **Factors favouring disclosure**

Release of the requested information would lead to better informed public awareness and debate.

#### **Factors favouring non-disclosure**

Public safety is of paramount importance to the PSNI and must always be considered so that the PSNI would not wish to endanger the health and safety of any individual by causing them distress or anxiety. By releasing information in relation to question 4 (a) and (b), could lead to individuals being distressed and their own and family's safety endangered by persons involved in criminality intent on taking action against an already vulnerable person. The PSNI has a duty of care to the community we serve, to release information which could lead to an individual's safety being jeopardised would result in a loss of confidence in the way information is used. As already outlined in the HARM, the threat level in Northern Ireland is SEVERE.

## **Decision**

On balance it is not in the public interest to release any information which would or would be likely to endanger any individual's health and safety or to compromise law enforcement issues.

### **Question 4(c)**

Was action taken on these?

### **Answer to 4(c)**

The receipt of a threat invokes a procedure which must be adhered to albeit the final outcome can vary depending on the individual circumstances.

### **Question 5**

Did Constable Ronan Kerr's personal details go missing? If so was Constable Kerr offered any additional security?

### **Answer**

The investigation into Constable Kerr's murder is still ongoing and therefore PSNI can neither confirm nor deny it holds any relevant information in relation to this part of your request citing Sections 23 (5), 24 (2), 30 (3) and 31 (3).

The PSNI can Neither Confirm Nor Deny that it holds the information relevant to question 5 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 23(5) Information Supplied by or relating to Security Bodies

#### **Qualified Exemption**

Section 24 (2) National Security

Section 30 (3) Investigations

Section 31 (3) Law Enforcement

Section 23 is a classed based absolute exemption and therefore there is no need to explain the public interest considerations in this area.

However, it is required that PSNI articulate the public interest considerations for the use of NCND within the Section 24 exemption. To the extent that Section 24 applies, PSNI have determined that in all the circumstances of the case, the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in confirming whether PSNI holds the information.

Section 30 (3) is a class based qualified exemption which means PSNI are required to conduct a public interest test in relation to their usage in neither confirming nor denying the existence of any information. However, Section 31 is a prejudice based qualified exemption 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.

### **Harm**

To neither confirm nor deny the information you have requested would be confirming or denying the existence/non existence to the world and not just to you the individual.

The PSNI's overall policing functions are governed by the Police (NI) Act 2000. The act states "it shall be the general duty of police officers –

- (a) to protect life and property;
- (b) to preserve order;
- (c) to prevent the commission of offences;
- (d) where an offence has been committed, to take measures to bring the offender to justice."

To confirm or deny the requested information may include information which relates to one or more of the bodies listed at section 23(3) of the Act. Guidance from the ICO notes that a wide interpretation can be applied to the term 'national security', identifying that national security interests go beyond directly preventing attacks on the UK to include the safety of UK citizens abroad and the

protection of the democratic constitution.

Significantly, the guidance explicitly recognises the effective operation of national security bodies as being in the interests of national security, and it is this that I consider to be the key factor in the application of the section 23(5) and section 24(2) exemptions in this instance.

To demonstrate how this would occur in practice, I will review the range of possible responses that may be put forward as a result of a request for Intelligence data about investigations.

Possible responses are as follows:

- PSNI holds no information, and they respond by confirming this. Therefore, the inference is that no security body has or had involvement with the individual and no information has been shared with them.
- PSNI holds information which comes from/relates to a section 23 body, and they respond by exempting the information by virtue of section 23 only (as section 23 and 24 cannot be applied to the same information unless in the application of a neither confirm nor deny response). This clearly indicates that information has been shared with a security body and that the information clearly relates to an investigation.
- PSNI holds information, and they respond by exempting the information by virtue of section 24 only. This indicates that while the information falls within the national security remit of PSNI, in this case, no security body has or had an involvement or interest in the requested information. A similar inference could be drawn if the PSNI responded by applying section 31 only.
- PSNI holds information, and they disclose it. This would damage national security and law enforcement as it would reveal the extent of the police (and potentially other bodies) knowledge about a given subject.

In summary, to confirm or deny if the requested information is held, whichever course of action is taken, will itself disclose exempt information, and will result in damage to national security and law enforcement as confirming or denying whether information is held would give an indication of the interest of the police and potentially of a security body, now or in the past, in the requested information.

## **Public Interest Test**

### **Section 24(2) National Security**

#### **Factors favouring confirmation or denial :**

Confirmation as to whether the information is or isn't held could provide a better awareness to the general public that the use of police funds is being dealt with appropriately.

#### **Factors against confirmation or denial:**

Confirming or denying whether information is held would damage national security as it would reveal the level of police interest in a specific investigation.

NCND must be applied consistently. In order for the police and other bodies to protect national security they must be able to maintain secrecy around specific targets of interest (whether these be investigations, people, properties etc). A confirmation or denial in this case would undermine future NCND responses by enabling comparisons between responses to be made.

### **Section 30 (3) Investigations**

### Factors favouring confirmation or denial

The public interest will always be in providing appropriate information that police investigations are being carried out efficiently and effectively. Confirmation of information held in this case could promote public trust in providing transparency, whilst demonstrating openness and accountability into the level of information the PSNI may or may not be aware of.

### Factors against confirmation or denial

Routine confirmation or denial about the level of information/evidence held in any police investigation could seriously undermine the investigation and prejudice the detection of crime and prosecution of offenders. This would lead to the investigation being prejudiced and would effect the PSNI's future law enforcement capabilities if such information was released.

Despite the fact that there have been substantial media comments concerning this case the PSNI consider the release of any information which would or would not identify what information they may or may not hold other than those already in the public domain would hinder investigations. Such a release could also undermine the right to a fair trial should any person be subsequently charged with any offence connected to your request.

## **Section 31(3) Law Enforcement**

### Factors favouring confirmation or denial

Better awareness may lead to improved information in the public domain.

### Factors against confirmation or denial

PSNI consider, because of the prejudice that would be likely to be caused by providing a response that confirms or denies that the requested information is held, would reveal exempt information relating to the involvement or otherwise of a security body. This in itself will impact on the law enforcement role of PSNI.

For PSNI, safeguarding national security equates directly to 'law enforcement', as it is within this remit that they exercise their statutory duty and powers. PSNI gather intelligence and evidence with a specific view to preventing crimes from taking place and identifying and arresting those who have committed criminal acts.

The public will always be interested in knowing that police investigations are being carried out efficiently and effectively. However routine confirmation or denial about the level of information held or not held in a police investigation could seriously undermine PSNI's future law enforcement capabilities.

## **Decision**

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 of what information PSNI may or may not hold in relation to the murder of Constable Kerr is outweighed by the potential risk to 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.

## **Question 6**

How many incidents of sectarian intimidation have been reported by (a) Catholic recruits and (b) Protestant recruits at Garnerville, how are these reports followed up? How many trainees have left because of them?

**Answer**

The PSNI Police Training College has advised that in responding to this question the following definition is of note:

The PSNI has defined a sectarian incident as -

**'Any incident which is perceived to be sectarian by the victim or any other person'**

Sectarian incidents may take many different forms, for example: Assaults, damage to your home or other property, verbal abuse or hate mail.

There have been no incidents reported to College staff by any Student Officer in the last five years.

For your information the college has also advised that no Student Officer left their training (Student Officer Training Programme (SOTP) stating this was because of a sectarian incident.

**Question 7**

How many members of the PSNI currently have threats against their lives, how many of these officers are Protestant, how many are Catholic?

**Answer**

All police officers serving in PSNI are under what could be referred to as a generic threat. This must not be understated at this present time. There are from time to time threats received against an identifiable individual officer. For the same reasons outlined earlier, the number of these threats and the religion of the threatened officers are considered exempt and therefore Sections 31 and 38 apply as in the above response to questions 4 (a) and 4(b).

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.