



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2011-01264

**Keyword:** Organisational Information/Governance

**Subject:** Statement Given to Police in 1961

### Request and Answer:

#### Question

I would like to access a statement given by (named person) on February 2nd, 1961. I think that it might have been given at Corry Square RUC Station. The statement is featured in a novel and I would like to establish if it is an accurate copy of the statement or if, in fact, such a statement exists at all.

#### 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) Personal Information

Although Section 40 is a class based and absolute exemption, it is necessary to consider the public interest for the purposes of confirming or denying the existence of the requested information. This exemption applies because all releases under FOI are releases into the public domain and not just to an individual. The requested information, if held would relate to the individual concerned. 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.

## **Public Interest Test**

### **Section 40**

#### **Factors Favouring Confirmation or Denial**

Confirming or denying whether the PSNI hold this information would aid accountability in that the public could see what action was taken by police when recording incidents in 1961.

#### **Factors Against Confirmation or Denial**

Confirming or denying the existence of the requested information would contravene 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 that they would reasonably expect. The breach of any individual's data protection rights would be caused by confirmation or denial. This is so whether or not the information is held.

## **Decision**

Whilst there is a public interest in the transparency of policing, there is strong public interest in maintaining confidence in the PSNI with regard to its handling of individuals' personal data. There is no tangible community benefit in complying with section 1(1)(a) of the Act at this time. It is for these reasons that the Public Interest must favour neither confirming nor denying that the requested information is held.

None of this however, should be taken as conclusive evidence that the information you requested exists or does not exist.

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

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.