



FREEDOM OF INFORMATION REQUEST



Request Number: F-2012-02113

Keyword: Crime

Subject: Has the PSNI instituted a formal operation against RAAD

Request and Answer:

Question 1

Has the PSNI instituted a formal operation against RAAD in Derry?

Question 2

If yes: What is it called?

Question 3

What is the total number of officers assigned to it on a daily basis?

Question 4

What is the total number of man hours that have been used in the operation to date?

Question 5

What is the command structure of the operation?

Question 6

How many arrests have been made as a result of the operation and what were the offences?

Question 7

What is the remit of the operation?

Question 8

If no, why not?

Answer

In accordance with the Act, this letter represents a Refusal Notice for this particular request. The Police Service of Northern Ireland (PSNI) 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 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 23 (5) Information Supplied by or Concerning Certain Security Bodies
Section 24 (2) National Security
Section 31 (3) Law Enforcement

Neither confirm nor deny is needed to protect any harm, which may arise if the PSNI has to confirm or deny it holds particular information. In some situations, simply to confirm or deny whether a particular category of information is held could in itself disclose sensitive or damaging information.

Section 23 is an Absolute Exemption and does not require a harm or public interest test. Compliance with Section 1 would involve the disclosure of information which, if held, may have been supplied, directly or indirectly by security bodies.

Sections 24 and 31 are prejudiced based, qualified exemptions and, as such, they are all subject to harm and public interest tests.

Disclosures under the Freedom of Information Act are disclosures to the world, not just to the individual making the request. To confirm that information relating to a formal operation against RAAD is held, even if that information was exempted, or to confirm no information is held, would provide intelligence to criminals/terrorists about the status of a police investigation. Such awareness would seriously undermine the PSNI's ability to protect the community and place individuals at risk.

Harm Test Section 24

To confirm or deny whether the PSNI hold such information would enable those engaged in criminal or terrorist activity to identify the focus of policing intelligence or activity.

Harm Test Section 31

The confirmation or denial of the existence of the information requested would also reveal policing tactics regarding who was of interest to the police generally. This could be to the detriment of providing an efficient policing service and a failure in providing a duty of care to all members of the public.

Public Interest Test

Factors favouring confirmation or denial for Section 24

The information simply relates to national security and disclosure would not actually harm it. The public are entitled to know how public funds are spent. Any confirmation or denial that the PSNI holds such information would allow the public to gauge the appropriate use of public funds in carrying out their national security investigations. In addition it would provide appropriate transparency and reassurance that investigations are effectively carried out subsequently researched in order to provide valuable intelligence/information.

Factors against confirmation or denial for Section 24

Confirming or denying whether PSNI hold information of this nature would render Security measures less effective. This would lead to the compromise of ongoing or future operations to protect the security or infra-structure of the UK and increase the risk of harm to the public. Confirmation or denial in this particular case would present a high risk in that it would reveal whether PSNI held

intelligence in relation to RAAD. Those responsible for crime would be able to act on the information released, thereby jeopardising security as they would be able to identify whether their actions have been detected and whether links have or have not been made with previous incidents. In some cases it is possible that such analyses may be assisted by intelligence supplied by one or more of the bodies listed at section 23(3) of the Act. Sections 23(5) and 24(2) are therefore cited in conjunction to protect the involvement or non-involvement of security bodies.

Factors favouring confirmation or denial for Section 31

By confirming or denying whether this information is held the public would see where public funds are being spent and would be able to take steps to protect themselves and their families. Better public awareness may reduce crime or lead to more information from the public.

Factors against confirmation or denial for Section 31

By confirming or denying whether this information is held, law enforcement tactics would be compromised which would hinder the prevention and detection of crime. More crime would be committed and individuals would be placed at risk.

Decision

Whilst there is a public interest in the transparency of the use of public funds and the accountability of the Service, there is also a strong public interest in maintaining confidence in the PSNI with regard to national security and law enforcement.

Irrespective of whether information is or is not held, public safety and the ability to deliver effective law enforcement is also of paramount importance to the Police Service. Confirmation or denial of whether information is held would undoubtedly compromise both national security and undermine law enforcement and investigative processes. Therefore, at this moment in time, it is our opinion that for these issues the balancing test for confirming whether or not any information is held by PSNI is upheld.

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

Notwithstanding the above, RAAD are a priority and that they are a particular focus of attention for the PSNI.

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.