



FREEDOM OF INFORMATION REQUEST



Request Number: F-2013-04688

Keyword: Organisational Information/Governance

Subject: DNA Database

Request and Answer:

Question

Following my recent FOI request - your reference F-2013-02284 - I would like to make a new request for the detailed information held on the PSNI's DNA database.

I would like to receive the data held on the database for each individual - with people's names and other personal identifying information removed. This personal information can be removed by simply deleting full columns which contain personal data (for example the surname and forename columns) so it cannot be argued that this will not require a costly and time consuming trawl through each entry. I also expect that the names of police officers/forensic staff will be removed - again this can be done by deleting these columns in full.

As a result of my last request, I am aware of all of the column headings in the database. Please provide an explanation for each column heading and also clearly state the exemption which applies if information in any of the columns is withheld from me.

Please send me the data I am requesting in Excel format broken down into the information held on each individual - or .csv format if Excel is not possible.

The column headings I predict it may be necessary to completely remove to protect people's anonymity are: surname, forenames, the 'information' field (which may contain details on the individual case), sampling officer name and number, the 'detail' column which again may contain details on the case, FSNi staff names (in GT operator columns), 'Alias' names and the staff names in last few columns (destroying officer, destruction witness and certificate recipient).

Also, please note:

1. I would like to have a unique identifier for each case to be able to account for double entries from the same individual. This could possibly be done by you providing the 'barcode' number or alternatively the 'sample number'. I am assuming that these will not lead to the identification of individuals.
2. I understand that you will not be able to provide me with the exact date of birth for each individual. Could you instead give me their age at the time the sample was taken? Or you could apply a formula to the 'DOB' column which will leave only the year of birth for me to see. Or alternatively, an age group (rather than exact age) could be given for each individual - again by simply applying a

formula to the already existing information in the column. Please contact me to discuss this issue as soon as possible if you foresee any problems.

3. Also, for the sample date column (the date the sample was taken I assume) - again I do not expect the exact date to be released. A formula could be applied easily to this column to give me just the month and year the sample was taken. I feel this would be enough to provide anonymity. Or if it is felt necessary, just the year the sample was taken could be provided to me.

Answer

PSNI do hold the information you have requested (subject to where you suggest PSNI should create new information to aid with the anonymisation of columns of information at points 1, 2, and 3 of your request above). Your request has sought information within the various categories of the DNA database. You have suggested that where it is possible to identify an individual from a category of information, e.g. a sampling officers name, to remove this information or to replace it with a newly created identifier. Whilst PSNI is not under a duty to create new information we considered if it was possible to undertake such an exercise in response to this request outside of our obligations under the FOIA. Given however that there are over 150,000 entries on the database it was apparent this would not be feasible for us to do this.

Your request for information has now been considered in detail and the decision has been taken not to supply the information you have requested for those reasons set out under the Freedom of Information Act below.

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.

PSNI consider the following exemption(s) applies, and has set out those factors and public interest considerations below.

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

Section 31 states:

“Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice –

- (a) the prevention or detection of crime,
- (b) the apprehension or prosecution of offenders
- (c) the administration of justice
- (g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2)”

The DNA database as an evidential tool

Before setting out the reasons for refusing this request under the section 31 exemption we considered it was important to highlight to you the importance of the DNA database for PSNI in terms of a forensic tool of evidence. By way of background, the DNA database holds electronic DNA records taken from individuals and crime scenes. It provides the PSNI with matches linking an individual to a crime scene. When the police take a DNA sample, it is then sent to an accredited laboratory, which analyses the sample to produce a DNA profile – a string of 20 numbers representing only a tiny fraction of that individuals DNA, but which allows that individual to be

identified (the chance of two unrelated individuals having the same DNA profile is more than 1 billion to one). Since December 2013 PSNI have been using a system which produces a 32 number sequence and therefore is an even more discerning detection system. This profile obtained from the crime scene is then inputted into the database to search for a matching DNA profile and when a match is found, it gives the police a possible suspect for the crime. A database match might also identify a witness, or eliminate people from the police investigation. It is therefore an extremely valuable evidential tool to PSNI. Currently there are over 150,000 entries on the database. PSNI is aware that a DNA profile taken will comprise of an individual's sensitive personal data, and will be unique to that individual. As such, PSNI understands it is tasked with ensuring an individual's privacy is maintained in relation to the retention of such intimate samples. Overseeing the work of the DNA Database is the Northern Ireland DNA Database (NIDNAD) Governance Board. NIDNAD acts as an advisory body on the use and retention of DNA samples and information derived from them as a DNA profile, to ensure compliance with relevant legislative provisions. Membership of this Board includes PSNI, the Department of Justice, the Forensic Science Regulator, legal and ethical academics and the Information Commissioner's Office in an observer capacity. This Board seeks to ensure the appropriate use and management of DNA and the safeguards in place to ensure its proper usage.

Section 31 (1) (a) (b) (c) (g)

PSNI has extended the timeframes in responding to this request to consider the public interest in this exemption. Section 31 is a prejudice based and qualified exemption, therefore a Harm Test and Public Interest Test are necessary.

PSNI consider there is clearly overlap in the prejudice considerations of the various subsections of this exemption and this exemption can protect a variety of law enforcement interests. In considering the prejudice test for this exemption the PSNI are of the view that account should be taken of any mosaic or precedent effects caused by the release of this information. PSNI have taken on board the Information Commissioner's Office guidance on section 31 which states that "*the prejudice test is not limited to the harm that could be caused by the requested information on its own. Account can be taken of any harm likely to arise if the requested information were out together with other information*".

Harm Test

PSNI believe that revealing detail of the raw data in any of the categories of this database would create a precedent. In complying with one request (or indeed providing you with part of the information which you have suggested) it would make it more difficult for us to refuse requests for similar information in future. We have noted that we have already released information identifying the categories of information held within the database, which your request refers. If we were to release any further information we consider we would also be vulnerable to a mosaic effect occurring, which would allow criminals or others to piece together information on the database and allow individuals to be identified. If we release some categories of information within the DNA database, and this is either matched with other information already in the public domain or it is more difficult for us to refuse requests for the remaining categories of information in the database, our ability to utilise the capability of the DNA database would be compromised. The DNA database holds information relating to specific crimes; it also provides us with evidence to link individuals to crime scenes, if this information were to be revealed it could affect the general administration of justice and undermine particular proceedings against individuals. PSNI have taken into account the ICO Decision FS50209828, which considered the application of section 31 (1) (c) by the Northern Ireland Office ('NIO'). At that time the NIO provided a forensic science service to the police. The request related to details of forensic evidence NIO had examined in relation to a double murder, where both defendants were awaiting trial. NIO argued that that a large amount of evidence was collected, some of it would prove irrelevant and other evidence could be misleading if not presented objectively. Placing evidence in the public domain could undermine the right to a fair trial, allow offenders to cover their tracks and on a wider note allow criminals to adopt techniques for avoiding detection in future. In

taking into account this case, such is the value of DNA evidence to policing purposes that the PSNI consider revealing even some of the content of this database could undermine its integrity as an evidential tool and undermine the ability of PSNI to carry out its general policing function.

Public Interest Test

As section 31 contains a public interest test, PSNI have considered the following factors:

Factors favouring release - Section 31

There is public interest in transparency in relation to how PSNI performs its functions and utilises evidence to perform those functions. Public debate may be informed by releasing information on the DNA database.

Factors favouring retention - Section 31

There is a strong public interest in ensuring the maintenance of privacy for individuals whose samples are recorded on the DNA database. PSNI understand it is tasked with a weighty responsibility in maintaining the privacy of this information. In order to ensure individuals rights are being accorded with, PSNI engages with the governance mechanisms in place to ensure it is complying with all relevant legislation and standards in relation to this information. DNA samples are unique to an individual. Their value as a tool of evidence in being able to place an individual at a crime scene or eliminate an individual from an enquiry is extremely high. PSNI consider there is a strong public interest in maintaining the integrity of this evidential tool in order to protect society from the impact of crime. We consider even revealing some aspects of this database would make it extremely difficult for us to refuse future requests. PSNI consider there is a strong public interest in maintaining the confidential nature of this information

Decision

PSNI has a duty to fulfil its law enforcement role and whilst there is a public interest in the transparency of policing activities, the delivery of effective law enforcement is also a priority for PSNI. Once information is disclosed under FOI there is no control or limits as to who or how the information is shared with other individuals, therefore a release under FOI is considered a disclosure to the world in general. PSNI are aware of their responsibilities in maintaining this database, and in ensuring that we do not infringe the human rights of individuals. There are strong governance arrangements around the control and operation of the database, which constantly seeks to ensure PSNI, complies with relevant legislation and case-law as well as ethical guidelines and information handling standards. In this case PSNI consider the exemption at section 31(1) (a) (b) (c) (g) is engaged and the public interest favours retention of the information you have requested.

Further information outside of the Act

Whilst we understand we are not obliged to do so PSNI would be keen to provide you with some statistical breakdowns in relation to information held within the categories of the DNA database. As we have set out, we have concerns about releasing the raw data within the categories the database into the public domain, owing to their importance to our policing functions and the need to maintain the privacy of individuals whose information we hold. Please let us know if you would like us to furnish you with such information.

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.