



## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2018-01345

**Keyword:** Crime

**Subject:** Botanic Gardens Assaults

### Request and Answer:

Your request for information has now been considered. In respect of Section 1(1)(a) of the Act I can confirm that the Police Service of Northern Ireland does hold some information to which your request relates and this is being provided to you. We further consider the information you seek re nationality and ethnic origin of both victims and those arrested in relation to the offences is exempt by virtue of section 40 of the FOIA and have detailed our rationale as to why this exemption applies. We have also provided you with links to guidance issued by the Information Commissioner's Office which we have followed in responding to your request.

### Request

Please provide details of assaults that were reported in the grounds of Botanic Gardens, Belfast.

Please provide monthly figures for reported assaults from January 2016 until the latest figures and also indicate the number of arrests, cautions, fines and convictions resulting from these assaults.

If costs allow, please provide details of the victims, namely their age, nationality and ethnic origin. If costs allows please also indicate the age, nationality and ethnic origin of those arrested for assault in the area.

### Answer

Attached spreadsheet entitled "Botanic Gardens Assaults" outlines some of the information requested but as already articulated above I have decided to exempt releasing details of the nationality and ethnic origin of both victims and those arrested in relation to the offences listed. The rationale for this is detailed below.

Section 17 of the Freedom of Information Act 20009 requires the Police Service of Northern Ireland (PSNI), when refusing to provide such information (because the information is exempt) to provide you the applicant with a notice which:

- a) states the fact
- b) specifies the exemptions(s) in question
- c) states ( if not otherwise apparent) why the exemption applies

The exemption is as follows:

**Section 40(2)(a)(b) by virtue of 40(3)(A)(a) Personal Information** – Information constitutes personal data and disclosure would contravene any of the Data Protection principles.

We have explained below in our response why these exemptions are engaged and the full text of exemptions can be found at [www.legislation.gov.uk](http://www.legislation.gov.uk). Further guidance on how they operate can be located on the Information Commissioners Office website [www.ico.org.uk](http://www.ico.org.uk).

Section 40 (2) of the FOIA is an absolute exemption which means there is no requirement on the PSNI to consider whether there is a public interest in disclosure. It is an interface exemption and we must consider whether release of the information would breach the General Data Protection Regulations ('GDPR') or the Data Protection Act 2018 ('DPA') Third party personal information in relation to nationality and ethnic origin and this information constitutes their 'personal data' under the GDPR (Article 4) and DPA (Part 1 s.3).

Under the Freedom of Information Act, PSNI must consider if information can be released into the public domain. I have therefore considered whether the disclosure of this personal data is subject to the exemption at Section 40(2) of the Freedom of Information Act 2000 by virtue of s40 (3)(A)(a). As this information is 'personal data', PSNI considered whether disclosure would contravene any of the six data protection principles contained within the GDPR or DPA.

The six data protection principles are good information handling standards which PSNI must comply with in relation to how it handles personal information, including deciding whether to disclose it or not. In particular, the first principle requires personal data to be processed 'fairly and lawfully'. In considering whether it is 'fair' to any individual to release information about them, PSNI considered the likely expectations of those individuals and the nature of the information involved. Individuals must have confidence that their information is treated sensitively and appropriately by PSNI. We consider those individuals would not have any reasonable expectation PSNI would disclose such information of this nature about them. We consider it would be extremely unfair to those individuals and therefore a breach of the first principle of data protection legislation. This information is therefore exempt under section 40 (2) of the FOIA as it contravenes data protection legislation to release it and the PSNI has made the decision to withhold that information.

To provide the details requested, especially when taken in conjunction with information already in the public domain, would make the identification of the victims and those arrested highly likely.

In this instance I am satisfied that if released as public disclosure, this information could impact on the victims and those arrested would therefore be a breach of the Data Protection Act and as a result is withheld under S40(2).

The full text of exemptions can be found at [www.legislation.gov.uk](http://www.legislation.gov.uk) and further guidance on how they operate can be located on the Information Commissioners Office website [www.ico.org.uk](http://www.ico.org.uk).

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.