



## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2018-02337

**Keyword:** Crime

**Subject:** Investigations Regarding Drug Offences

### 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 information to which your request relates and this is being provided to you. We further consider the information you seek in request number 5 is exempt by virtue of section 31 of 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 1

The number of cases in the last year (working back 12 months from the point when this request is answered) where the subject has been released "under investigation" in relation to drug offences?

### Answer

PSNI does not have an "under investigation" disposal type. Advice from our business team to previous FOI requests using this term has been that the closest equivalent is the 'Released to be reported' disposal.

On 'Release to be Reported' disposals, a case file is submitted to the PPS and a Prosecutorial Decision is made by the PPS as to whether or not to proceed with prosecution for the offence. As such, there are no PSNI 'charge' disposals for any of the relevant offences on these custody records. Therefore for these questions, in lieu of a 'charging decision' by the PSNI, the below figures refer to a Prosecutorial Decision by the PPS, where this is recorded against the linked case file for drugs offences.

As for all requests which return information on prosecutions, the following caveat applies: Information relating to convictions & prosecutions is provided by NI Courts Service and the Public Prosecution Service to PSNI for information purposes only and may not be wholly accurate. For accurate figures the relevant information should be sought from either NI Courts or PPS directly.

The record owner within the PSNI has identified 831 custody records where a person has a release to be reported disposal attached. To confirm that any disposals attached to custody records relate specifically to drugs offences, results have been filtered to include offence codes where the charge wording includes 'drug'. The list of offences included is attached in a separate document for information.

## **Request 2**

The number of cases in the last year (working back 12 months from the point when this request is answered) where the subject has been released "under investigation" in relation to drug offences for over 6 months without a charging decision?

## **Answer**

The record owner within the PSNI has identified 193 custody records. This figure has been derived from the custody records returned for Q1 for which: One or more offences on the custody record have a current offence status of 'Released for report' and more than 6 months have passed since the custody date.

## **Request 3**

The number of cases in the last year (working back 12 months from the point when this request is answered) where the subject was released "under investigation" in relation to drug offences that led to a charge?

## **Answer**

The record owner within the PSNI has identified 301 custody records. As mentioned above, the nature of the released to be reported disposal is that the decision on whether or not to prosecute is referred to the PPS. The above figure relates to custody records returned for Q1 for which one or more of the offences resulted in a PPS decision to prosecute. It should also be noted that, as custody records can include multiple offences, the same custody record may be returned for both Q3 and 4 as different prosecutorial decisions may be taken on each offence.

## **Request 4**

The number of cases in the last year (working back 12 months from the point when this request is answered) where the subject was released "under investigation" in relation to drug offences that led to no further action?

## **Answer**

The record owner within the PSNI has identified 70 custody records. The term 'no further action' is ambiguous and potentially does not fit in well with cases with a Release to be Reported disposal. The above figure relates to records, return for Q1, for which a 'No Prosecution' decision from the PPS was recorded against the case file. In these cases, the PPS has decided not to proceed, however it should be noted that the PSNI will have taken additional actions to investigate, prepare and submit the case file to the PPS. It should also be noted that, as custody records can include multiple offences, the same custody record may be returned for both Q3 and 4 as different prosecutorial decisions may be taken on each offence.

## **Request 5**

Please provide a copy of the most recent Drugs Price guide that has been written.

## **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.

The exemption/s, as well as the factors the Department considered when deciding where the public interest lies, are listed below:

**Section 31(1) (a)(b) - Law Enforcement** - (a) the prevention or detection of crime (b) the apprehension or prosecution of offenders.

Section 31 is a qualified and prejudice-based exemption. This means that the legislators have determined that it is necessary to evidence the harm in release and to conduct a public interest test.

The summary of the Harm and Public Interest considerations for Section 31 are provided below:

## **Harm**

Although there is a call for openness and transparency this needs to be balanced against any harm in disclosure. The Police Service has a clear responsibility to prevent and detect crime and disorder as well as maintaining public safety.

Modern day policing is intelligence led and this is particularly pertinent with regard to law enforcement. The College of Policing has an Authorised Professional Practice for Intelligence Management. There are four products which are the deliverables of intelligence led policing. They are the result of collaboration between analysts, intelligence officers and policing units. Each product has a defined purpose and provides recommendations for making decisions and options for action. These four products are strategic assessment; tactical assessment; subject profile and problem profile. This APP can be viewed at the below link:

<http://www.app.college.police.uk/app-content/intelligence-management/intelligence-products/#content-of-the-strategic-assessment>

It is a business process with an intention to provide focus to operational policing and to achieve a disproportionately greater impact from the resources applied to any problem. It is dependent on a clear framework of analysis of information and intelligence allowing a problem solving approach to law enforcement and crime prevention techniques.

Disclosing the information requested would reveal tactical intelligence receiving into the PSNI by individuals who do so in confidence and with an understanding that their information will be dealt with and handled appropriately and in line with the College of Policing APP. Placing the information into the public domain may also influence criminals and provide an awareness of whether or not the police are aware of their criminality.

Furthermore, a drop in the flow of information being received into (force name) would undoubtedly compromise any ongoing or future investigations, which in turn undermines the effective delivery of operational law enforcement.

## **Public Interest Test**

### Factors favouring disclosure – Section 31

The information requested relates to 'intelligence' receiving into (force name). There is a public interest in the community being made aware that the Police Service actively investigate and record information receiving into (force name) appropriately. Such a disclosure would improve public debate in this subject area.

### Factors favouring non-disclosure – Section 31

To disclose information which is used by (force name) to assist in making decisions relating to tasking priorities and tactical options would not be in the public interest. In this case, information contained within a drugs price guide would have been collected and developed to determine the action required to ensure the appropriate methodology and tactics are used when investigating drug offending. Intelligence gathering is a continuous process and any disclosure would undermine that process.

## **Decision**

The release of information under the Freedom of Information Act is a release into the public domain and not just to the individual requesting the information. Once information is disclosed by 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.

Whilst there is a public interest in providing transparency to ensure the PSNI receives and deals appropriately with any information 'intelligence' submitted into the force which would provide reassurance to the general public, there is a strong public interest in ensuring that information that is provided in confidence is assessed and used to assist with the effective delivery of operational Law Enforcement.

As much as there is a public interest in knowing that the delivery of law enforcement is appropriate and balanced, this will only be overridden in exceptional circumstances. Therefore it is our opinion that for these issues the balance for disclosure is not made out.

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.psnipolice.uk](http://www.psnipolice.uk)

Personal details in respect of your request have, where applicable, been removed to protect confidentiality.