



## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2021-00236

**Keyword:** Operational Policing

**Subject:** Hard Stops

### Request and Answer:

In relation to requests numbers 1, 2 and 3, the Police Service of Northern Ireland ('PSNI') is providing a Neither Confirm nor Deny (NCND) response. This means we can neither confirm nor deny that we hold the information you have requested. We will explain how the exemption we are relying upon operates in our response below. In respect with Request 4 we are supplying an answer.

You requested the following information from PSNI:

Can I please request the below information broken down annually for the following years - 2020, 2019, 2018, 2017, 2016, 2015, 2014, 2013, 2012, 2011.

### Request 1

How many times was a hard stop performed by your force?

### Request 2

Can this data be broken-down by ethnicity of the person the hard stop was carried out against? If so can this please be included.

### Request 3

Of the total number of hard stops carried, how many resulted or contributed to the death of the person the hard stop was carried out against?

### 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(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 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 24(2) – National Security**

### **Section 31(3) – Law Enforcement**

Section 31 is qualified exemption and as such there is a requirement to articulate the harm and conduct a test of the public interest in confirmation or denial.

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).

### **‘Neither Confirm nor Deny’ (NCND)**

There may be occasions when complying with the duty to confirm or deny under section 1(1) (a) would in itself disclose sensitive or potentially damaging information that falls under an exemption. In these circumstances, the Act allows a public authority to respond by refusing to confirm or deny whether it holds the requested information.

The decision to issue a ‘neither confirm nor deny’ response is not affected by whether we do or do not hold the information but relates to the consequences of confirming or denying the information is held. The starting point and main focus in most cases will be theoretical considerations about the consequences of confirming or denying that a particular type of information is held. The decision to neither confirm nor deny is separate from a decision not to disclose information and needs to be taken entirely on its own merits.

PSNI follow the Information Commissioner’s Guidance in relation to ‘NCND’ and you may find it helpful to refer to this at the following link:

[https://ico.org.uk/media/for-organisations/documents/1166/when\\_to\\_refuse\\_to\\_confirm\\_or\\_deny\\_section\\_1\\_foia.pdf](https://ico.org.uk/media/for-organisations/documents/1166/when_to_refuse_to_confirm_or_deny_section_1_foia.pdf)

### **Overall Harm in Confirming or Denying that Information is held**

To confirm whether or not PSNI have carried out such stops as part of planned operations would undermine operations by revealing tactical capability and intelligence within this area. The prevention and detection of crime is the foundation upon which policing is built. The Police Service has a clear responsibility to prevent crime and arrest those responsible for committing crime or those that plan to commit crime. By confirming whether or not such stops have been made in a planned tactical capacity, could directly influence the stages of that process, jeopardise current investigations and prejudice future law enforcement.

The threat from terrorism cannot be ignored. It is generally recognised that the international security landscape is increasingly complex and unpredictable. Since 2006, the UK Government has published the threat level, based upon current intelligence and that threat is currently categorised as ‘substantial’, see below link:

<https://www.mi5.gov.uk/threat-levels>

The UK continues to face a sustained threat from violent extremists and terrorists. In order to counter criminal and terrorist behaviour it is vital that the police have the ability to work together, where

necessary covertly, to obtain intelligence within current legislative frameworks to assist in the investigative process to ensure the successful arrest and prosecution of offenders who commit or plan to commit acts of terrorism.

To achieve this goal, it is vitally important that information sharing takes place between police officers, members of the public, police forces as well as other security law enforcement bodies within the United Kingdom. Such an action supports counter-terrorism measures in the fight to deprive terrorist networks of their ability to commit crime.

To confirm or deny whether any other information is held would be extremely useful to those involved in terrorist activity as it would enable them to identify whether specific covert investigations have taken place and where. Any disclosure no matter how generic which may assist a terrorist or terrorist organisation, will adversely affect public safety.

## **Public Interest Considerations**

### **Section 24(2) National Security**

#### *Factors favouring confirming or denying that information is held*

The public are entitled to know how public funds are spent and resources distributed within an area of policing. To confirm whether information exists relating to a specific types of investigations, which may include those intent on disrupting the national infrastructure, would enable the public to hold the force to account.

#### *Factors against confirming or denying that information is held*

Security measures are put in place to protect the community that we serve. To confirm any detail relating to stops that may or may not have taken place would highlight to terrorists and individuals intent on carrying out criminal behaviour, policing capability which may include covert policing activity. This would ultimately increase the risk of harm to the general public and significantly undermine any ongoing or future operations to protect the security or infrastructure of the United Kingdom.

Taking into account the current security climate within the United Kingdom, no information (such as the citing of an exemption which confirms information pertinent to this request is held, or conversely, stating 'no information is held') which may aid a terrorist should be disclosed. To what extent this information may aid a terrorist is unknown, but it is clear that it will have an impact on a force's ability to monitor terrorist activity.

Irrespective of what information is or isn't held, the public entrust the Police Service to make appropriate decisions with regard to their safety and protection and the only way of reducing risk is to be cautious with what is placed into the public domain.

The cumulative effect of terrorists gathering information from various sources would be even more impact when linked to other information. The more information disclosed over time will give a more detailed account of the tactical infrastructure of not only a force area but also the country as a whole. Any incident that results from such a disclosure would by default affect National Security.

To confirm or deny whether the PSNI hold any information would allow inferences to be made about the nature and extent of national security related activities which may or may not take place in a given area. This could enable terrorist groups to take steps to avoid detection, and as such, confirmation or denial would be damaging to national security.

### **Section 31(3) Law Enforcement**

#### *Factors favouring confirming or denying that information is held*

By confirming or denying whether specific tactics are used, would lead to better public awareness identifying that the force undertakes all avenues of investigative processes in order to tackle crime. This fact may lead to more information (intelligence) being submitted from the public which may culminate in a reduction of crime.

#### *Factors against confirming or denying that information is held*

The Police Service would never confirm whether or not it uses a particular tactical capability as part of specific investigative activity if to do so would disclose information to the detriment of operational law enforcement, as evidenced within the harm.

Whilst there is a public interest in the transparency of policing operations and providing assurance that the PSNI is appropriately and effectively engaging with the threat from terrorists and criminals, there is a very strong public interest in safeguarding both national security and the integrity of police investigations and operations in this highly sensitive area.

It is for these reasons that the Public Interest must favour neither confirming nor denying that the requested information is held. However, this should not be taken as necessarily indicating that any information that would meet your request does or does not exist.

**The release of information under Freedom of Information (FOI) 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.**

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

#### **Request 4**

In the last ten years has a review of hard stops been carried out by your force? If so when and what was the outcome?

#### **Answer**

PSNI continuously review procedure and tactics in line with the College of Policing Guidance contained within the `National Police Firearms Training Curriculum.

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 Corporate Information Branch, 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 Corporate Information Branch, 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.