

Keeping People Safe



FREEDOM OF INFORMATION REQUEST



Request Number: F-2022-01582

Keyword: Crime

Subject: Organ Harvest Investigations

Request and Answer:

In relation to request number **FOI-2022-01582** the Police Service of Northern Ireland (PSNI) is providing a Neither Confirm Nor Deny (NCND) response and will explain this further in the response below.

Request 1

Please send me information on the number of cases relating to suspected organ harvesting the police force has investigated since 1 January 2017.

Request 2

Please state the nationality of those who were investigated, the month the investigation was launched, and the organ that was thought to be at risk of being harvested.

Request 3

Please also state why any investigations did not proceed to prosecution.

Answers

In accordance with the Act, this letter represents a Refusal Notice for this particular request. The 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 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 23(5) - Information Supplied by, or concerning, certain Security Bodies - Confirmation or denial would likely prejudice information directly or indirectly supplied to the public authority by, or relates to, any specified bodies

Section 30(3) - Investigations Conducted by Public Authorities – The duty to confirm or deny does not arise in relation to information which is (or if it were held by the public authority would be) exemption information by virtue of subsection (1) or (2)

Section 31(3) Law Enforcement - The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would or would be likely to, prejudice any of the matters mentioned in subsection (1).

The full text of exemptions can be found at www.legislation.gov.uk and further guidance on how they operate can be located on the Information Commissioners Office website 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

Exemptions Explained

Section 23 is an absolute class based exemption and there is no requirement to demonstrate harm or consider a public interest test.

Section 30 is a qualified class based exemption and there is a requirement to conduct a public interest test.

Section 31 is prejudice based and qualified which means that there is a requirement to articulate the harm in confirming or not whether information is held as well as carrying out a public interest test.

Harm – Section 31

The public expect police forces to use all powers and tactics available to prevent and detect crime or disorder and maintain public safety. Modern slavery is the illegal exploitation of people for personal or commercial gain. It covers a wide range of abuse and exploitation including sexual exploitation, domestic servitude, forced labour, criminal exploitation and also organ harvesting where victims are trafficked to sell their body parts and organs for transplant.

Victims of modern slavery can be any age, gender, nationality and ethnicity. They are tricked or threatened into exploitation, and may feel unable to leave or report the crime through fear or

intimidation. In respect of organ harvesting, victims can be tricked into believing they require an operation and whilst under anaesthetic have an organ removed, without knowledge or consent. In addition, Human traffickers are known to offer safe passage in return for an organ. It is also the case that victims of forced organ harvesting have previously been exploited through other forms of slavery.

Although some larger organised crime groups are involved, people are also trafficked for exploitation by looser collaborating networks often involved in additional forms of serious criminality, including drugs and firearms trafficking.

Eradicating modern slavery and human trafficking is one of our highest priorities. We work with partners to pursue offenders, safeguard victims, conducting investigation which can be very complex, and consequently police operations to counter such activity require considerable resources, planning and sensitivity in order to be successful. Criminals are known to use considerable resources at their disposal and plan their activities in detail, making the work of the police more difficult. Giving any information which may assist them in analysing or pre-empting police activity would clearly give them an advantage, helping them to evade detection and undermining the ability of the police service to enforce the law and protect communities.

Placing information into the public domain concerning what PSNI know about the prevalence or not, of organ harvesting would be of assistance to those with interest in such matters, as responses from different forces around the country, and requests made at different times or for similar information, would allow comparisons to be made, and therefore analysis as to which police force areas have the highest and lowest indications of exploitation in respect of organ harvesting activity. Criminals would accordingly be able to give themselves the best chances of evading detection by concentrating their activities in areas where they deem policing to be weakest.

Irrespective of what information may or may not be held, to confirm information is held by citing a substantive exemption or, conversely, stating 'no information held', would undermine the effective delivery of operational law enforcement by compromising potentially ongoing investigations, some of which may be covert, as well as undermining an evidential tactic and the strength that evidence may have if used in a court of law for the prosecution.

Public Interest

Factors Favouring Confirmation or Denial for Section 30

Confirming or denying that information exists relevant to this request would lead to a better informed general public improving their knowledge and understanding as to how PSNI is dealing with investigations into exploitation and organ harvesting. The public are entitled to know how public funds are spent, particularly when money from the 'public purse' is used in pursuit of investigating crime.

Factors Against Confirmation or Denial for Section 30

Modern-day policing is intelligence led and PSNI where appropriate share information with outside partners as part of their investigative process. To confirm or deny whether information is held in respect exploitation through organ harvesting could hinder the prevention and detection of crime as well as undermine the partnership approach to investigations and law enforcement. Should offenders take evasive action to avoid detection, police resources may well be diverted from frontline duties and other areas of policing in order to locate and apprehend these individuals. In addition, the safety of individuals and victims would be compromised.

Factors Favouring Confirmation or Denial for Section 31

Confirming or denying of information is held relating to organ harvesting would show that PSNI is being open and accountable in respect of its law enforcement activities, thereby demonstrating how public funds are being utilised.

Factors Against Confirmation or Denial for Section 31

Confirming or denying information is held relating to exploitation through organ harvesting would allow criminals to use that and similar information from other police forces to geographically 'map' relative levels of police activity relating to such matters, which also puts victims at risk of harm. This would give the criminal fraternity an advantage, assisting them in planning their activities so as to best evade detection. Consequently this would have a negative impact upon the police's ability to enforce the law.

Balance Test

When balancing the public interest it is necessary to consider the release of the requested information into the public domain. The public interest is not what interests the public, but what would be of tangible benefit to the public as a whole.

The points above highlight the merits of confirming or denying that information pertinent to this request exists. The Police Service of Northern Ireland proactively uses all tactics available to them, particularly when trying to reach a successful conclusion to investigations and solve crime. Any tactics are used in line with current regulators and following set policies and procedures.

The effective delivery of operational law enforcement takes priority and is at the forefront of PSNI to ensure the prevention and detection of crime is carried out and the effective apprehension or prosecution of offenders is maintained, whilst safeguarding victims of crime.

Therefore, at this moment in time, it is our opinion that for these issues the balance test for confirming, nor denying, that information is held is not made out.

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

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.police.uk.

If, following an Internal Review carried out by an independent decision maker, you remain dissatisfied with the handling of your request, you may make a complaint to the Information Commissioner's Office, under Section 50 of the Freedom of Information Act, 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', or use the ICO self-service portal available at www.ico.org.uk/make-a-complaint/officialinformation-concerns-report/official-information-concern/

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 their 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.