

Keeping People Safe



## FREEDOM OF INFORMATION REQUEST



**Request Number:** FOI-2021-00601

**Keyword:** Crime

**Subject:** Female Victims of Homicide

### Request and Answer:

Your request for information has now been considered. In respect of Section 1(1) (a) of the Act we 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 in your request in relation to the name of the victim, accused / perpetrator and the way in which the victim was killed is exempt by virtue of Sections 30, 38 and 40 of FOIA, and have detailed our rationale as to why these exemptions apply. 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 Numbers 1-7

Please could you provide us with a list of all female victims of homicide killed between 1 January 2020 and 31 December 2020 (inclusive) which your authority has been responsible for investigating and, for each victim:

1. the date of the homicide
2. the names of the victims and the accused / perpetrator
3. the age of the victim
4. the ethnicity/race of the victim
5. the relationship between the accused and the victim
6. the sex of the accused / perpetrator
7. if identified, the way in which the victim was killed?

### Answers

Please find below a table containing partial information in relation to your request. The following table is based on all recorded homicide offences with a female victim, where the occurrence date took place between 1 January 2020 - 31 December 2020. As these offences have been identified based on occurrence date, they may not match published figures on homicide as the published figures are based on date of report to police. All details provided are as held on the PSNI database.

Please note:

- The date of death has been provided; these details have mainly been taken from the NICHE incident date occurred from field.
- Age of victim at time of death is provided.
- Victim ethnicity - details have been taken from the person record, where ethnicity has been input, a blank cell means that no ethnicity details have been input onto the NICHE person record.
- Relationship - Where Statistics Branch publish relationships regarding homicides, this would not be given to the same level of detail requested in this FOI.

Date of the homicide	Victim age at time of death	Victim ethnicity	Relationship between the accused and the victim	Sex of the accused/ perpetrator
30-Mar-2020	82	White	Grandson	Male
22-Apr-2020	39	White	Son	Male
02-Aug-2020	20	White	Partner	Male
09-Aug-2020	21	White	To be clarified	Male
16-Aug-2020	60		Husband	Male
17-Oct-2020	75	White	Fellow Care Home Resident	Female

However the PSNI is exempting the name of the victim, the accused / perpetrator, and the manner in which the victim was killed for the reasons as articulated 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.

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

**Section 30(1)(a) – Investigations And Proceedings Conducted by Public Authorities –**

Information held by a public authority is exempt information if it has at any time been held by the authority for the purposes of: (a) Any investigation which the public authority has a duty to conduct with a view to it being ascertained (i) whether a person should be charged with an offence, or (ii) whether a person charged with an offence is guilty of it

**Section 38(1)(a)(b)– Health & Safety** – Information which would or would be likely to, endanger the physical or mental health of any individual or (b) endanger the safety of any individual

**Section 40(2)(a)(b) by virtue of Section 40(3)(a)(i) – Personal Information**

Information constitutes personal data and disclosure would contravene any of the Data Protection principles.

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).

Section 30 is a qualified class based exemption and a public interest is required.

Section 38 is a prejudiced, class-based exemption which means PSNI must demonstrate harm in disclosure and consider the balance of the public interest in releasing the information.

Section 40 is a class-based exemption, therefore it is not necessary to evidence the harm caused by disclosure or carry out a public interest test. When PSNI receives a request for information that constitutes the personal data about any individual, it must decide whether disclosure would breach Principle 1 of the Data Protection Act (DPA), i.e. whether it would be fair and lawful to disclose the information. Whether it will be fair will depend on a number of factors including the reasonable expectations of the individuals involved, the balance between any legitimate public interest in disclosure and the rights and freedoms of the individual(s) concerned.

PSNI considered the material you have requested. The information requested relates to individuals who we believe would not have a reasonable expectation that their personal information would be released into the public domain through FOI. We consider release of this information would be unfair to those individuals as it would not be in their reasonable expectation. PSNI therefore consider the exemption at Section 40 (2) to be engaged in relation to the requested information.

Please see the Harm provided below in relation to Section 38 and the public interest considerations for Sections 30 and 38.

### **Harm**

Section 38 provides an exemption from disclosing information if such a disclosure would endanger any individual and is wide enough to include those members of the general public including those family members of the deceased. Under this exemption PSNI will not put the families and friends of the victims into any further distress by releasing victim names or the manner of their deaths through a FOI release.

Whilst there is a public interest in the transparency of investigations carried out by PSNI, to ensure they are being conducted appropriately, the Police Service also have a duty of care to all individuals involved in investigations to ensure effective law enforcement, and PSNI must ensure that information is not disclosed that could compromise an investigation.

A disclosure 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.

### **Public Interest Test**

#### Factors Favouring Release – Section 30

Disclosure of the requested information could promote public trust in providing transparency and demonstrating openness and accountability into how investigations take place. Releasing the information may encourage the public and others to come forward to report criminal offences if they know that a proper investigation will be undertaken. All investigations involve the use of public funds and this could allow the public to make informed decisions about police procedures and the money spent in this business area.

#### Factors Favouring Retention –Section 30

The information requested is held for the purpose of investigations and therefore if PSNI were to release the requested information it could seriously compromise and undermine the investigations, thus hindering the course of justice and any release could result in the loss of evidence. There is a strong public interest in ensuring that all investigations have been undertaken professionally and rigorously by PSNI.

It would not be in the public interest to release information which would in turn impact on police

resources and lead to more crime being committed, placing individuals at risk and investigations and the outcome of subsequent proceedings could be compromised.

#### Factors Favouring Release – Section 38

Releasing the requested information would promote transparency and openness; however public safety is of paramount importance to the PSNI and must always be considered so that the PSNI's ability to fulfil its core function of law enforcement is protected. PSNI would not wish to endanger the health and safety of any individual although disclosure would improve the public's knowledge and understanding surrounding each of these murders.

#### Factors Favouring Retention – Section 38

Releasing the requested information could cause upset and distress to the surviving relatives and close friends of the victim. Disclosure of this information could result in a loss of confidence in the police service's ability to protect individuals as the risk to individuals would be significant.

#### **Decision**

On balance the requirement to withhold this information relating to any investigations must take precedence over the important issues of public accountability and transparency, as releasing this information may affect the outcome of any court proceeding which must take precedence. Although there is a public interest in the transparency of investigations, PSNI has a greater duty of care to all individuals involved in any investigation and the investigative role is of paramount importance and the Police Service will not divulge information if to do so would adversely affect any ongoing investigations.

The requirement to withhold this information, the release of which may affect the health and safety of individuals must take precedence over the importance of public accountability and transparency. Any diminution of public assistance would hamper these investigations and detection of crimes and in time lead to a reduction in public confidence in the criminal process. PSNI consider that by releasing names of victims, suspects / perpetrators may have the potential to identify individuals and pose a risk to their safety.

On this basis it has been decided that the balance of the public interest favours withholding some of the information you have requested at this time.

#### **Request Number 8**

Whether there were any previous reports from the victim (or any third party) regarding the accused / perpetrator; and

#### **Request Number 9**

Whether there were any previous reports and / or convictions of any other offences related to violence against women perpetrated by the accused / perpetrator?

#### **Answers 8 and 9**

In accordance with the Act, this represents a Refusal Notice for Request numbers 8 and 9.

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 30(3) Investigations and Proceedings 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) exempt 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](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)

Section 30 is a qualified class based exemption and a public interest test is required.

Sections 31 is a qualified prejudice based exemptions and evidence of harm and a public interest test is required.

#### **Harm**

Request numbers 8 and 9 request for information (aka intelligence) that has been provided to the Police Service in confidence by individuals. The public expect police forces and other law enforcement agencies to use all powers and tactics available to them in their endeavour to prevent and detect crime or disorder and maintain public safety. There are a number of tactics available for gathering intelligence including, as in this case, recorded information that is provided by members of the public when they contact the PSNI of their own volition.

The Police Service would never confirm or deny whether information has been supplied by members of the public relating to a named individual or not, whoever that individual may be, unless there is genuine operational reason to do so. If the PSNI reveals information, by confirming information is held (by citing an exemption) or, conversely, stating no information is held, that in itself reveals information about a named individual and would undermine police investigations.

In addition, the flow of information (intelligence) into the PSNI could be compromised which would

have an impact on our ability to collect reliable and accurate intelligence resulting in more costly and time consuming methods of collecting information. In addition confirmation or denial has potential to undermine ongoing operations, investigations as well as any future judicial process.

Finally, and more importantly, any disclosure which would undermine an investigation would also compromise the health and safety of an individual placing them in danger.

## **Public Interest Test**

### Factors favouring confirmation or denial – Section 30

Confirming or denying whether information exists relevant to this request would lead to a better informed general public by identifying that the PSNI robustly investigate crime. This fact alone may encourage individuals to provide intelligence in order to assist with investigations and promote public trust in providing transparency and demonstrating openness and accountability into where the police are currently focusing their investigations.

### Factors favouring neither confirming or denying – Section 30

Confirmation or denial that information is held would suggest PSNI take their responsibility to appropriately handle and manage intelligence supplied to them flippantly. Under FOI there is a requirement to comply with S1 (1) (a) and confirm that information is held. In some cases it is that confirmation, or not, which could disclose facts which would undermine the investigative process and in such cases PSNI takes advantage of its ability under FOI legislation to, where appropriate, neither confirm nor deny that information is or is not held. Irrespective of what information is or isn't held regarding questions 8 and 9, any information which could be used to undermine prosecutions or aid offenders is not in the public interest.

### Factors favouring confirmation or denial – Section 31

Any violence against women is an extremely emotive subject, even more so in the current climate following the tragic murder of Sarah Everard. There are lot of protests and campaigning ongoing into this subject as well as a vast amount of journalistic material in the public domain and this in itself favours confirmation or denial.

### Factors favouring neither confirming or denying – Section 31

PSNI has a duty of care to the community at large and public safety is of paramount importance. If an FOI disclosure reveals information to the world by not adopting an NCND position, this action would compromise the effective delivery of operational law enforcement as detailed in the harm above.

PSNI relies on information being supplied by the public. Irrespective of what information is or is not held, by applying substantive exemptions would indicate that information is held and therefore reveal personal information about an individual. Such action would act as a deterrent to the public to provide intelligence to the force and would not be in the public interest.

## **Decision**

The points above highlight the merits of confirming or denying that information pertinent to Request numbers 8 and 9 exists. The Police Service relies heavily on the public and other law enforcement agencies providing information. The public has an expectation that any information they provide will be treated with confidence. Anything which places that confidence at risk, no matter how generic, would undermine any trust or confidence other agencies and individuals have in the Police Service.

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 apprehensive or prosecution of offenders is maintained.

Therefore, at this moment in time, it is our opinion that for these issues the balance test for Neither Confirming Nor Denying that information is held for request numbers 8 and 9 is appropriate in this

case.

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.