

Keeping People Safe



## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2021-00618

**Keyword:** Complaints/Discipline

**Subject:** Deaths In Custody

### Request and Answer:

Your request for information below has now been considered. In respect of Section 1(1)(a) of the Freedom of Information Act 2000 (FOIA) we can confirm that the Police Service of Northern Ireland does hold the information you have requested however it is estimated that the cost of complying with your request for information would exceed the “appropriate costs limit” under Section 12(1) of the Freedom of Information Act 2000. We have explained to you below that when PSNI estimates whether the appropriate limit is likely to be exceeded, it can include the costs of complying with two or more requests if certain conditions are met. In this case those conditions are met and complying with all of your requests would in our estimation exceed that appropriate limit set out in Regulation. We have explained this further below but also we followed the Information Commissioner’s Office guidance ‘*Requests where the cost of compliance exceeds the appropriate limit*’ in relation to this request, which also provides further detail on the application of section 12 (1) of the FOIA. This guidance is available on the ICO website at the following link:

[https://ico.org.uk/media/for-organisations/documents/1199/costs\\_of\\_compliance\\_exceeds\\_appropriate\\_limit.pdf](https://ico.org.uk/media/for-organisations/documents/1199/costs_of_compliance_exceeds_appropriate_limit.pdf)

### Request details

My inquiry relates to prosecutions of police officers in connection with the Deaths in Custody of black people in Britain and I would be grateful if you could provide me with answers to the following questions:

#### Request 1

How many police officers have been charged and subsequently prosecuted in connection with a death in police custody in England and Wales since January 1st 1990? (We are defining a death in custody as a death occurring during or directly resulting from contact with the police).

#### Request 2

In cases where officers have been charged and subsequently prosecuted in connection with a death in custody, are the ethnicities of those who have died in custody recorded, and if so, how many of them are recorded as non-white?

#### Request 3

Can you provide the names and any details of cases where officers have been charged and

subsequently prosecuted in connection with a death in custody of an individual recorded as black? (We are defining black as those of African or Caribbean heritage including mixed race people of African or Caribbean heritage).

#### **Request 4**

Of the charges and subsequent prosecutions of police officers in connection with a death in police custody of any black person in England and Wales since January 1st 1990, how many of these prosecutions have ended successfully in obtaining convictions?

#### **Answers**

Section 17(5) of the Freedom of Information Act 2000 requires the Police Service of Northern Ireland, when refusing to provide such information (because the cost of compliance exceeds the appropriate limit) to provide you the applicant with a notice which states that fact.

It is estimated that the cost of complying with your request for information would exceed the "appropriate costs limit" under Section 12(1) of the Freedom of Information Act 2000. Section 12 of FOIA allows a public authority to refuse to deal with a request where it estimates that it would exceed the appropriate limit to either comply with the request in its entirety or confirm or deny whether the requested information is held. The estimate must be reasonable in the circumstances of the case. The 'appropriate limit' is currently £600 for central government and £450 for all other public authorities including PSNI. The relevant Regulations which define the appropriate limit for section 12 purposes are The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulation 2004 SI 2004 No 3244. These are known as the 'Fees Regulations' for brevity.

Regulation 4(3) of the Fees Regulations states that a public authority can take into account the costs it reasonably expects to incur in carrying out the following permitted activities in complying with the request:

- (i) determining whether the information is held;
- (ii) locating the information, or a document containing it;
- (iii) retrieving the information, or a document containing it; and
- (iv) extracting the information from a document containing it.

Under those regulations PSNI can calculate the time spent on each of these permitted activities at £25 per hour (thus if the activity(s) takes more than 18 hours PSNI will be in excess of the 'appropriate limit').

When a public authority is estimating whether the appropriate limit is likely to be exceeded, it can include the costs of complying with two or more requests if the conditions laid out in Regulation 5 of the Fees Regulations can be satisfied. Those conditions require the requests to be:

- made by one person, or by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign;
- made for the same or similar information; and
- received by the public authority within any period of 60 consecutive working days.

Regulation 5(2) of the Fees Regulations requires that the requests which are to be aggregated relate "to any extent" to the same or similar information. This is quite a wide test but public authorities should still ensure that the requests meet this requirement.

PSNI have noted that your request refers to England and Wales and therefore it should be noted that PSNI refers to the Police Force in N Ireland and therefore our responses would not fall into these areas. Based on this our response would be that PSNI do not hold the information requested,

however to assist and as the request was submitted to PSNI we have respond to your requests accordingly.

PSNI's current data base for recording complaints includes the categorisations of Death in Custody and Death following Police Contact, which would allow retrieval of this data.

However this categorisation of complaints does not cover the entire period requested, and therefore as the information is not held in a format that enables extraction of the data without manual intervention, it would require a manual examination of complaints to obtain the data requested. The PSNI receives over 2500 complaints per year and at an average estimate of 1 minute's research per file this would require 40 hours work for a 1 year period of complaints received by PSNI. These requests exceed the FOI cost limit of 18 hours as set by the Secretary of State. .

In accordance with the Freedom of Information Act 2000, this letter should be considered as a Refusal Notice, and the request has therefore been closed.

### **Advice and Assistance**

Under Section 16 of the FOIA, PSNI will always try to assist you to refine your request and provide advice where we can. PSNI has considered how your request may be refined to bring it under the appropriate limit.

- Request numbers 1, 2 and 4 - PSNI can provide the information relating to deaths in custody for the last 5 years (2016-2020) due to the existence of the current complaints classification for that period. PSNI have not commenced the retrieval process and therefore it may be subject to any relevant exemptions as / if when retrieved the information may be considered to be low level and identifiable
- However the remainder Request number 3 again as PSNI have not commenced the retrieval process and therefore we do not know if PSNI hold this information, however if held it would be subject to any relevant exemptions as / if when retrieved the information would be considered to be low level and identifiable

Submission of a refined request would be treated as a new request, and considered in accordance with the Freedom of Information Act 2000, including consideration of relevant Part II exemptions.

If you have any queries regarding your request or this 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.psnj.police.uk](http://www.psnj.police.uk)

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