



FREEDOM OF INFORMATION REQUEST



Request Number: FOI-2021-01484

Keyword: Crime

Subject: Police Officers Charged with Murder and/or Rape

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 all of 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

You requested the following information from PSNI:

Clarification received from you the Requester

An issue has been flagged up in my request, in the subject line I say convicted and in the body of my email, I asked for charged. I also don't provide a date range.

So for clarity, the revised request is:

Request

How many police officers from your force have been charged with the offence of murder and/or rape in the last 10yrs Between 21st Of June 2021 and the 21st June 2011

Broken down by year for each offence if any.

If you are unable to supply 10yrs please supply as many years as you can.

Answer

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 the pursuance of a campaign:
- Made for the same or similar information; and
- Received by the public authority within any period of 60 consecutive 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.

For your information, the ICO Guidelines state, “ A Public Authority is not obliged to search for, or compile **some** of the requested information before refusing a request that it estimates will exceed the appropriate limit ...” Therefore, PSNI is not obliged to search up to the appropriate limit.

Enquiries made in relation to your request confirmed that the information requested is not held in a readily retrievable format. Whilst PSNI hold all criminal data in the central database NICHE, there is no specific mechanism to extract the data requested. However PSNI’s Professional Standards Department do not hold a central record of whether officers were ‘charged’ with criminal matters. To provide the information would require a manual search of several databases and spreadsheets to extract and examination all criminal investigations for the period of time requested. In addition to this files received from the Office of the Police Ombudsman (PONI) during this period would also need to be considered.

In the period between 21st June 2011 and 21st June 2021 there were a total of 700 criminal investigations undertaken by the business area. Not accounting for the files received from PONI a

conservative estimate of 2 minutes research per file would equate to 23 hours work.

To conclude, the above searches would exceed the FOI legislative cost 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 as follows:

- Due to the existence of a separate database it may be possible for PSNI to provide the number of officers '**convicted**' of rape or murder during the past 10 years.
- PSNI can provide the data from 1st January 2020 to 31st August 2021 for any officer **charged** of murder or rape.

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.

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

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