



## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2020-01508

**Keyword:** Crime

**Subject:** Stolen Vehicle Incident

### Request and Answer:

Your request for information has now been considered. In respect of Section 1(1)(a) of the Act I can confirm that the Police Service of Northern Ireland does hold information to which your request relates. The decision has been taken not to supply the information you have requested and the reasons for this are set out in more detail below. 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.

A red Ford Cortina was stolen during the night of 6<sup>th</sup> August 1987 or the morning of 7<sup>th</sup> August 1987.

The vehicle was subsequently in a police involved shooting incident.

The shooting incident was described in the Daily Mirror 7/8/87 " as the end of a high speed shooting drama in a city centre "

**Clarification sought:** Would you please confirm if a fatality occurred in relation to your request.

**Clarification received:** I am not aware of any fatality in this incident.

### Request 1

I request police details of all persons involved in the incident from the theft of the vehicle to first police notification/involvement.

### Request 2

I request police details of any court cases and any charges brought/dropped against any person involved in this incident.

### Request 3

I request police details on the injury outcome for the occupant/s of the stolen vehicle.

I was informed at the time by R.U.C Grosvenor Road of items recovered in the vehicle.

### Request 4

I request information on any/all items found in the vehicle when it was stopped and recovered by the

police.

As outlined above we have taken the decision to withhold all information in relation to your requests 1-4 and the rationale for this is outlined 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) - Investigations and Proceedings Conducted by Public Authorities** - Information held by a public authority is exempt information if it has been held at any time 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.

**Section 40(2)(a)(b) by virtue of 40(3)(A)(a) 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 40 is a class based exemption therefore it is not necessary to carry out a public interest test.

## **Section 40 (2)**

Section 40 (2) of the FOIA is an absolute exemption which means there is no requirement on the PSNI to consider whether there is a public interest in disclosure. It is an interface exemption and we must consider whether release of the information would breach the General Data Protection Regulations ('GDPR') or the Data Protection Act 2018 ('DPA') Third party personal information in relation to names, and therefore this information constitutes information which can identify individuals is 'personal data' under the GDPR (Article 4) and DPA (Part 1 s.3).

Under the Freedom of Information Act, PSNI must consider if information can be released into the public domain. I have therefore considered whether the disclosure of this personal data is subject to the exemption at Section 40(2) of the Freedom of Information Act 2000 by virtue of s40 (3)(A)(a). As this information is 'personal data', PSNI considered whether disclosure would contravene any of the six data protection principles contained within the GDPR or DPA.

The six data protection principles are good information handling standards which PSNI must comply with in relation to how it handles personal information, including deciding whether to disclose it or not. In particular, the first principle requires personal data to be processed 'fairly and lawfully'. In considering whether it is 'fair' to any individual to release information about them, PSNI considered the likely expectations of those individuals and the nature of the information involved. Individuals must have confidence that their information is treated sensitively and appropriately by PSNI. We consider those individuals would not have any reasonable expectation PSNI would disclose such information of this nature about them. We consider it would be extremely unfair to those individuals and therefore a breach of the first principle of data protection legislation. This information is therefore exempt under section 40 (2) of the FOIA as it contravenes data protection legislation to release it and

the PSNI has made the decision to withhold that information.

Section 30 is a class based and qualified exemption which means that there is no requirement to evidence the Harm in release but that it is necessary to conduct a Public Interest Test.

## **Public Interest Test**

### Factors Favouring Disclosure - Section 30

There is a strong public interest in ensuring that this and any other investigation is or has been undertaken professionally and rigorously by the PSNI. 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 better inform the public and encourage others to come forward with evidence that could assist in the detection and apprehension of an offender/s if they know a proper investigation will be undertaken. All police investigations involve the use of public funds and this information could allow the public to make informed decisions about police procedures and the money spent in this business area.

### Factors Favouring Non-Disclosure - Section 30

Information is held for the purposes of an investigation and if PSNI were to release information, this may undermine any investigations relating to this or other cases. Evidence needs to be preserved and not released so that the course of justice is not impeded should any new evidence come to light.

There is a strong public interest in maintaining the Section 30 exemption in order to protect witnesses and in not deterring potential witnesses from making statements for fear that their evidence might not be treated in confidence. Also for maintaining the independence of the judicial and prosecution process and preserving the criminal court as the sole forum for determining guilt.

It is the National Police Chief Council (NPCC) approach that information relating to an investigation will rarely be disclosed under the provisions of the Freedom of Information Act. Whilst information may be released if it provides a tangible community benefit, for example to prevent or detect crime or to protect life or property, it is hard to see how the information here will do so.

## **Decision**

Although there is a public interest in the transparency of investigations the police service has a greater duty of care to all individuals involved in any investigation. The police service will not disclose information which could prejudice this case.

***The release of information under 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 how the information is shared with other individuals therefore a disclosure under FOI is considered a release to the world in general.***

This FOI request relates to information regarding an investigation file. Whilst PSNI recognise some time has passed in relation to the events to which your request relates, the prospect of a future investigation or pursuing an evidential opportunity is not extinct and to release information at this time into the public domain via the FOIA 2000 could compromise and undermine the case overall.

The PSNI have statutory obligations in respect of material held and have to act in accordance with such statutory obligations, therefore material relating to the investigation cannot be disclosed to the public, except following the direction of a court, or production of a court order.

PSNI must ensure that investigations or future evidence opportunities are not adversely affected by the release of information. The requirement to withhold information relating to a criminal investigation together with personal information, the release of which may affect the health and safety of individuals, must take precedence over the important issues of public accountability and transparency. Therefore, the public interest, in this instance, is best served by not releasing the

information to which you seek access.

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.psnipolice.uk](http://www.psnipolice.uk)

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