

Keeping People Safe



FREEDOM OF INFORMATION REQUEST



Request Number: F-2020-02182

Keyword: Crime

Subject: Protests - Arrests and Charges

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

You requested the following information from PSNI:

Request 1

- a) While officially recorded as attending a public protest, how many people were arrested by PSNI under the Highways Act 1980 between the 1st June 2019 to the 30th September 2019?
- b) Of those arrested, how many people were charged?

Request 2

- a) While officially recorded as attending a public protest, how many people were arrested by PSNI under the Highways Act 1980 between the 1st June 2020 to the 30th September 2020?
- b) Of those arrested, how many people were charged?
- c) Of those arrested, how many people are still released under investigation?

For all the above questions, please disaggregate by age, race and gender (if available).

Request 3

a) While officially recorded as attending a public protest, how many people were arrested by the PSNI under Section 89(2) Police Act 1996 - Obstructing a Police Officer, between the 1st June 2019 to the 30th September 2019?

b) Of those arrested, how many people were charged?

Request 4

a) While officially recorded as attending a public protest, how many people were arrested by the PSNI under Section 89(2) Police Act 1996 - Obstructing a Police Officer, between the 1st June 2020 to the 30th September 2020?

b) Of those arrested, how many people were charged?

c) Of those arrested, how many people are still released under investigation?

For all the above questions, please disaggregate by age, race and gender (if available).

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 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.

Enquiries made in relation to your request has identified that retrieval of information would exceed the 18 hour cost limit set under the FOI Act by the Secretary of State.

The information you are seeking under the Highway Act 1980 only applies to England and Wales. Also Section 89(2) Police Act 1996 - Obstructing a Police Officer is not a Northern Ireland offence. However, to be of assistance we have located equivalent Northern Ireland offences which are Article 88 of the Roads (Northern Ireland) Order 1993 - Obstruction of a Road and Sec 66 (1) of the Police NI Act 1998 - Obstructing Police

In relation to Requests 1a, 2a, 3a and 4a, we can advise that it is not an offence to attend a public protest. Therefore, it is not possible to identify whether or not a person was officially recorded as attending such an event as this information is not captured. Additionally, in an attempt to ascertain if arrests were made in relation to someone having attended a public protest would require a manual trawl of all custody records. During the time period requested 1st June 2019 to the 30th September 2019 and 1st June 2020 to the 30th September 2020 a total of 300 custody records have been identified. To establish if the arrests are linked to a public protest or not would require each of the 300 custody records and any linked records to be manually examined. This retrieval process would vastly exceed the 18 hour time period allowed for by FOI legislation and would be further increased for the remainder of your request.

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. Unfortunately, on this occasion we are unable to offer any refinement.

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.

Request 5

a) While officially recorded as attending a public protest, how many people were arrested by the PSNI under Section 50 of the Police Reform Act 2002, between the 1st June 2019 to the 30th September 2019?

b) Of those arrested, how many people were charged?

Request 6

a) While officially recorded as attending a public protest, how many people were arrested by the PSNI under Section 50 of the Police Reform Act 2002, between the 1st June 2020 to the 30th September 2020?

b) Of those arrested, how many people were charged?

c) Of those arrested, how many people are still released under investigation?

For all the above questions, please disaggregate by age, race and gender (if available).

Answer

Enquiries made in relation to Request 5A to Request 6C failed to locate any records or documents

relevant to this part of your request. In relation to Section 50 of the Police Reform Act 2002, this legislation is not applicable to officers in Northern Ireland and PSNI have no equivalent offence code.

Accordingly, we have determined that the Police Service of Northern Ireland does not hold the information to which you seek access.

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.psni.police.uk

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