

Keeping People Safe



FREEDOM OF INFORMATION REQUEST



Request Number: FOI-2020-02242

Keyword: Crime

Subject: Police Pursuit and Collision on 14th November 2020

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 some information to which your request relates and this is being provided to you. We further consider some of the information you seek in Requests 1,2,3,4,5 is exempt by virtue of section 30 of FOIA and Request 6 by virtue of section 40 and have detailed our rationale as to why this exemption applies. 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 1

How many police drivers have had their driving cards removed?

Request 2

How many police are being investigated by police /psd/poni in relation to alleged breaches of the police pursuit policy?

Request 3

How many police drivers are able to continue as police drivers whilst being investigated?

Request 4

How long had the pursuit been running prior to the collision?

Request 5

Was the pursuit authorised and if so was it in the initial phase or tactical phase?

Answers 1-5

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

Section 30 (1)(a) Information held by a public authority is exempt information if it has at any time been held by the authority for the purposes of – 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 – Investigations

The full text of exemptions can be found at www.legislation.gov.uk and further guidance on how they operate can be located on the Information Commissioners Office website www.ico.org.uk.

Section 30 is a class based exemption which means that if the information is of the type referred to within the exemption then the exemption applies to it without any consideration of the harm. It is also a qualified exemption which means that a public interest test must be carried out and the factors in relation to this are illustrated below.

Public Interest Test

Factors Favouring Release - Section 30

Disclosing this information would assist in showing that the PSNI are conducting thorough investigations into such incidents. There is much public interest in ensuring that this and any other investigation is undertaken professionally and rigorously and disclosure of the requested information could promote public trust in providing transparency, demonstrating openness and accountability into how investigations take place. Releasing the information may better inform the public and encourage others to come forward to report criminal offences 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 Retention – Section 30

The information requested is held for the purposes of investigations and therefore if the PSNI were to release the requested information at this time it could seriously compromise and undermine investigations, thus hindering the course of justice by prematurely releasing information resulting in loss of evidence or alerting a suspect. Also, any disclosure could infringe on a suspect's right to a fair trial and also the rights of the victims if a prosecution were to fail due to disclosure of the information. 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 Association of Chief Police Officers 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.

It would therefore 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 an investigation or the outcome of subsequent proceedings could be compromised.

Decision

On balance the requirement to withhold information relating to any investigations and in conjunction with personal information must take precedence over the important issues of public accountability and transparency as by releasing the information which may affect the outcome of any court proceedings must take precedence. The proper detection and investigation of crimes are cornerstones of a modern democratic society and the PSNI's 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 information relating to criminal investigations must take precedence over the important issues of public accountability and transparency. As the release of this information which would contravene one of the Data Protection principles, as the lives of individuals are of paramount importance and the PSNI will not divulge any information which could put any individual at risk. Any diminution of public assistance would hamper these investigations and detection of crimes and, in time, lead to a reduction in the public's confidence in the criminal process.

Therefore PSNI are satisfied that in this case the public interest factors favouring retention outweigh those favouring release as the interests in accountability can rarely defeat the interests in a fair investigation and trial.

In relation to police pursuits in general, how many police officers have been investigated for alleged breaches of the police pursuit policy, this year...

Request 6

When there has been no complaint by a member of the public or external agency?

Answer

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:

- (d) states that fact,
- (e) specifies the exemption in question and
- (f) states (if not otherwise apparent) why the exemption applies.

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

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 and further guidance on how they operate can be located on the Information Commissioners Office website www.ico.org.uk.

Section 40 (2)

Section 40 (2) of the FOIA is an absolute exemption which means there is no requirement on 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 constitutes '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. We 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 in a 'lawful and fair' manner. 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. The PSNI has a duty to protect the personal data which includes police officers and staff and this type of data into the public domain that relates or could be used to identify persons will be unfair to any individual concerned. Police Officers and staff must have confidence that their information is treated sensitively and appropriately. We consider it would be extremely unfair to those individuals and therefore it would be a breach of the first principle of data protection legislation as we consider those individuals would not have any reasonable expectation that PSNI would disclose information of this nature relating to them eg 'their names'. 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 the information.

The release of information under the Freedom of Information Act is considered 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 information is shared with other individuals, therefore a release under FOI is considered a release to the world in general.

Request 7

Where there have been no injuries to members of the public?

Answer

No officers this year have been investigated for alleged breach of the police pursuit policy on occasions where there have been no injures to members of the public.

Request 8

Where the officer's supervisor has referred their actions for investigation?

If these figures are not available for this year I would appreciate the information based on the last financial year.

Answer

No officers have been investigated this year for alleged breach of the police pursuit policy on occasions where their supervisor has referred their actions for investigation.

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 Freedom of Information Team, 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 Freedom of Information, 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.