



FREEDOM OF INFORMATION REQUEST



Request Number: F-2023-01594

Keyword: Organisational Information Technology and Equipment

Subject: Drone Forensics

Request and Answer:

Your request for information has now been considered. In respect of Section 1(1)(a) of the Act we 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 do not however hold information in relation to request number 4 below. We further consider the information you seek in request numbers 3 and 6 are exempt by virtue of section 31 and 40 of FOIA 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.

Time Period:
2020-Current

Request 1

Can drones be used for court-admissible evidence?

Request 2

Are there any conditions for them to be court-admissible?

Answer for Requests 1 and 2

Yes – imagery recorded by drones is court admissible the same as any other imagery recorded by police and as such it must comply with our own digital imaging guidance, which is derived from the Home Office guidance, whereby its integrity and authenticity can be demonstrated if requested.

Request 3

What tools or technologies are utilised for drone forensics?

Answer 3

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

Section 31(1) (a) (b) – Law Enforcement – Information which would be likely to prejudice (a) the prevention or detection of crime (b) apprehension or prosecution of offenders.

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 31

Section 31 is a prejudiced based exemption and this means it is the Public Authority's responsibility to evidence the harm. It is also a qualified exemption and therefore a Public Interest Test must be carried out.

Harm

Release of all information would reveal details of operational activity as well as internal PSNI policy and procedures. **A disclosure under FOI is a release of information into the public domain and not just to the applicant requesting the information.**

Disclosure of this information into the public domain could be used by those intent on criminal activity for their own purposes, thus adversely affecting the PSNI's law enforcement role. This would therefore both directly and indirectly impact on the prevention and detection of crime, the apprehension of criminals and increase the fear of crime in the community the police service seeks to serve.

Public Interest Test

Factors favouring disclosure – Section 31

Release of the requested information would lead to a better informed public and would demonstrate openness and transparency. Disclosure could reassure the public that the PSNI are using resources appropriately to enforce the law and ensure individuals are kept safe.

Factors favouring retention – Section 31

Release of information which could compromise PSNI's law enforcement abilities will not be in the public interest. Information which can educate criminals on police capabilities and tactics will not assist police with apprehending and prosecuting offenders.

Decision

The PSNI considers that the factors favouring withholding the information are stronger than those in favour of disclosing the requested information. Whilst it is acknowledged that where possible policing matters must be transparent and accountable, the security and effective law enforcement including the development of policing tools and methodologies is important in effective law enforcement. Weakening the mechanisms used to monitor and investigate any type of criminal activity would clearly increase risk.

Whilst there is a public interest in releasing the information requested the PSNI must ensure that law enforcement is not adversely affected by the release of material which reveals its operational methodology, capabilities or use of tactics.

In this case, the public interest favours withholding some information. PSNI is however providing you with information that does not impede on its law enforcement capabilities.

Request 4

Are there any specific challenges your DFOs experience in regard to gaps in drone forensics capabilities?

Answer

Your request for information has now been considered. In respect of Section 1(1)(a) of the Act we can confirm that the Police Service of Northern Ireland (PSNI) does not hold information in relation to your requests. Enquiries made in relation to your request failed to locate any records or documents relevant to your request based on the information you have provided.

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

Request 5

Could you disclose your digital forensics handling procedures in regard to drone forensics, if this exists? This should ideally cover planning to presenting as outlined within ACPO good practice for digital evidence. Where necessary please direct to further, publicly available, resources.

Answer

Handling procedures are the same as any other digital item and like any other device seized investigating offices will be thinking of wet forensics before submission to Cyber.

Request 6

Could you provide contact details of staff/officers working within digital forensics that will be able to answer further questions?

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/s, 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 Section 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

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'). There is information within the information you seek which can identify individuals including members of staff and individuals from other public authorities and police services across the UK, including their direct contact details. This information is 'personal data' under the GDPR (Article 4) and DPA (Part 1 s.3).

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. 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 PSNI has made the decision to withhold that information.

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 Corporate Information Manager, Corporate Information Branch, PSNI Headquarters, 65 Knock Road, Belfast, BT5 6LE or by emailing foi@psni.police.uk.

If, following an Internal Review carried out by an independent decision maker, you remain unhappy about how your request has been handled you have the right to apply in writing to the Information Commissioner, under Section 50 of the Freedom of Information Act, at 'Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. There are a number of other platforms you can use to contact the ICO and these can be found on the ICO's website at the following link: [Make a complaint | ICO \(https://ico.org.uk/make-a-complaint/\)](https://ico.org.uk/make-a-complaint/).

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 their 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.