



FREEDOM OF INFORMATION REQUEST



Request Number: F-2019-01338

Keyword: Crime

Subject: Hand Guns Used In An Attempted Murder

Request and Answer:

In relation to request no F-2019-01338 the Police Service of Northern Ireland (PSNI) is providing an NCND response and will explain this further in the response below.

Request 1

I am requesting information under FOIA and also all other rights of access concerning the 2 handguns (one of which was used in the June 1999 attempted murder of <Name With Held>) and also thirty eight rounds of live ammunition which I understand were sent to the RUC by Northumbria Police in 1999. Details of all information know to the PSNI / RUC concerning both the handgun used in <Name With Held> attempted murder. And also all that known about the second handgun?

Request 2

Details of all information know to the PSNI / RUC concerning the ammunition used in the <Name With Held> attempted murder. As well as that known to RUC / PSNI concerning the thirty eight rounds of live ammunition which were recovered with the two handguns?

Request 3

Copies of all ballistic reports and all information and findings concerning all tests of both the handguns and also the ammunition?

Request 4

All information known to RUC, PSNI concerning either of the two handguns having been being used in all / any other shooting/s, including , attempted murder / murder/s in Northern and or Southern Ireland?

Request 5

All information known to RUC, PSNI concerning the 38 rounds of live ammunition, including has the same ammunition (or similar) having been used in past shootings, attempted murder/s and or murder/s in Northern and or Southern Ireland?

Request 6

All information known by RUC, PSNI on either of the two handguns being connected to / part of and or from the shipments of weapons that had been sent to the IRA from Gaddafi's Libya?

Request 7

All information known to RUC, PSNI concerning the 38 rounds of live ammunition (including, that used in <Name With Held> attempted murder) including if that ammunition was from, same (and or similar to) to that supplied in shipments of weapons/ammunition supplied to the IRA from Gaddafi's Libya.

Answer

In accordance with the Act, this letter represents a Refusal Notice for this particular request. The Police Service of Northern Ireland can neither confirm nor deny that it holds the information you have requested.

Section 1 of the Freedom of Information Act 2000 (FOIA) places two duties on public authorities. Unless exemptions apply, the first duty at Section 1(1)(a) is to confirm or deny whether the information specified in the request is held. The second duty at Section 1(1)(b) is to disclose information that has been confirmed as being held.

Where exemptions are relied upon Section 17(1) of FOIA requires that we provide the applicant with a notice which

- a) states that fact,
- b) specifies the exemption(s) in question and
- c) states (if that would not otherwise be apparent) why the exemption applies.

The Police Service of Northern Ireland (PSNI) can Neither Confirm Nor Deny that it holds the information relevant to your request as the duty in Section 1(1)(a) of the Freedom of Information Act 2000 does not apply by virtue of the following exemptions:

Section 30(3) – Investigations and Proceedings Conducted by Public Authorities

Section 40(5) - Personal Information

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.

'Neither Confirm nor Deny' (NCND)

There may be occasions when complying with the duty to confirm or deny under section 1(1) (a) would in itself disclose sensitive or potentially damaging information that falls under an exemption. In these circumstances, the Act allows a public authority to respond by refusing to confirm or deny whether it holds the requested information.

The decision to issue a 'neither confirm nor deny' response is not affected by whether we do or do not hold the information but relates to the consequences of confirming or denying the information is held. The starting point and main focus in most cases will be theoretical considerations about the consequences of confirming or denying that a particular type of information is held. The decision to neither confirm nor deny is separate from a decision not to disclose information and needs to be taken entirely on its own merits.

PSNI follow the Information Commissioner's Guidance in relation to 'NCND' and you may find it helpful to refer to this at the following link:

[https://ico.org.uk/media/for-organisations/documents/1166/when to refuse to confirm or deny section 1 foia.pdf](https://ico.org.uk/media/for-organisations/documents/1166/when-to-refuse-to-confirm-or-deny-section-1-foia.pdf)

Section 30 is a qualified class based exemption and there is a requirement to evidence the Harm in confirming or denying information is held and to conduct a Public Interest Test

Section 40 is a classed based absolute exemption and there is no requirement to evidence the harm or consider the public interest.

Overall Harm for NCND

Every effort should be made to release information under FOI. However, to confirm or deny what information may be held in relation to this request may affect the ability of Police to investigate this matter.

Section 30 Public Interest Considerations

Factors favouring confirmation or denial for Section 30

By confirming or denying that information relevant to the request exists, would lead to better public awareness of how the PSNI is fulfilling its role of keeping people safe. Confirmation that information is held would also potentially provide transparency with regards to the public having a better understanding of the effectiveness of the Police Service.

Factors against confirmation or denial for Section 30

The information requested relates to an unsolved offence and it is therefore important to protect the investigation material. Confirmation or denial of the information requested could prejudice the investigation and any future possibility of bringing a prosecution. There is a strong public interest in ensuring that any police investigations into unsolved cases are protected.

Balancing Test

After consideration of the factors of the public interest test I believe that they are clearly weighed in favour of neither confirming nor denying that information exists. The PSNI is charged with enforcing the law, preventing and detecting crime and protecting the community we serve. To potentially jeopardise any unsolved investigation would have ongoing consequences to the PSNI and to the community we serve. I have therefore determined that the PSNI's ability to protect the investigation process significantly outweighs the public interest in confirming or denying whether the information requested is held.

However, this should not be taken as conclusive evidence that the information you requested exists or does not exist.

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.

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.