



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

FREEDOM OF INFORMATION REQUEST



Request Number: F-2008-04935
Keyword: Crime
Subject: CLAUDY BOMBING

Request:

Please would you let me know in writing if you hold information of the following description:

Records of meetings between Cardinal Conway and William Whitelaw to discuss the alleged involvement of a Catholic priest in the IRA bombing of Claudy.

If you do hold such information, I wish to have a copy of the information. I believe that the information requested is required in the public interest for the following reasons:

Like the families of the victims, the public is entitled to know, after the passage of so many years what passed between Conway and Whitelaw in respect of the Catholic priest's alleged involvement.

The Northern Ireland peace process was founded on the readiness of all parties involved honestly to confront the consequences of their actions,

The PSNI's handling of the investigation into the Claudy bombing, and more specifically the alleged involvement of the Catholic priest and how this matter was dealt with at the highest official levels, is a matter of public interest for the reasons above.

Answer:

I am writing to confirm that the Police Service of Northern Ireland has now completed its search for the information and have decided to disclose the attached press release, dated 20th December 2002 entitled Claudy Bombing - Statement from ACC North Sam Kinkaid, to you in full. He conducted an independent review of the information, which resulted in his decision to publicly publish his findings. However, PSNI has decided not to supply any further information.

Section 17 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 as follows: Section 31 (1) and Section 38 (1).

Furthermore, in reliance on the exemptions in sections 23(5), 24(2), 31(3) and 38(2) of the Freedom of Information Act (2000), PSNI can neither confirm nor deny whether we hold any additional information relevant to your request. To the extent that section 24(2), 31(3) and 38(2) applies, it has been determined that in all the circumstances of the case the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in confirming whether or not the information is held.

A disclosure under Freedom of Information is a release of information to the world in general and not an individual applicant. Therefore, simply confirming or not that such additional information were held could disclose sensitive and personal information about individuals.

It could be argued that it would be in the public interest to demonstrate that the PSNI is actively involved in the prevention and detection of terrorist based and criminal activities. Providing evidence of police methodology and accurate information may inform public debate and boost levels of confidence within the community in the fight against crime.

However, there is also a requirement to consider whether there is any public interest, which may overcome the harm, in confirming or denying the existence of such information, which primarily hinges on investigations. It is rare that details of any police investigation taking place would be disclosed, as law enforcement techniques, operational capabilities and the administration of justice could be compromised should such information be made available in the public domain.

As Section 23 is an absolute exemption there is no requirement for a Public Interest Test to be considered. However, Section 24, Section 31 and Section 38 are qualified exemptions, which means that PSNI are required to consider the public interest test.

HARM

A disclosure under Freedom of Information is a release of information to the world in general and not an individual applicant.

Any information relevant to this enquiry is exempt in total as the release of such information may be detrimental to the Police investigation.

The Historical Enquiry Team (HET) have confirmed that they are reviewing the Claudy Bombing and further information on HET can be accessed via www.psni.police.uk clicking on Departments then HET.

The flow of information to PSNI is essential to its work and any inappropriate release of information could compromise the confidence of individuals supplying information to the PSNI.

It is also taken into consideration the effect any information released to the Public would have on the family of the deceased and how the Public at large may view it. The European Convention of Human Rights states under Article 8 that each person has the right to respect for private and family life.

The public must have total confidence that information will be treated sensitively and appropriately.

A simple example of where this harm could occur may best be demonstrated with a fictional scenario. If a Freedom of Information request was made asking if the police had been provided with certain information, disclosing such a fact to the world would not only breach the data protection rights of the person providing that information, but would also display an attitude that the police service is reckless as to the consequences of such a disclosure. At best it could attract unwanted media attention, and at worse actually place the individual at risk.

By providing such information, not only would the world then know that the police were aware of the information provided, but more importantly, anyone could then start to identify whether subsequent police action had been taken in response to the information and take appropriate action to avoid detection. This would have the likelihood of identifying location-specific operations, enabling individuals to become aware of whether or not their activities have been detected or reported to the police, and ultimately compromise police tactics, operations and future prosecutions.

Public Interest Test

The public interest test relevant to your request is as follows: -

Favouring Disclosure

Accountability

The actions of the Police Service, particularly in relation to crime/terrorism, require appropriate application of legislation. This information would go some way towards reassuring those factors. Accountability pertaining to the efficiency and effectiveness of Police investigations and regulatory enforcement.

Media and Public Interest

To satisfy the media and public interest.

Public Debate

Where the release of information would contribute to the quality and accuracy of public debate.

Investigations

There tends to be a considerable public interest in criminal cases in seeing that justice is done.

Considerations Favouring Non-Disclosure

Efficient and effective conduct of the PSNI

It would not be in the public interest to release information that may prevent or hinder current and future police investigations and regulatory enforcement.

Where current or future law enforcement role of the PSNI may be compromised by the release of information.

Current Investigations

It would not be in the public interest to release information, which may prevent or hinder the bringing of an individual/s to justice. If this information were released, it could hinder current and future police investigations and regulatory enforcement.

It would not be in the public interest to release information that may still be of assistance the PSNI in relation to any unresolved investigations.

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 such 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.

Criminal Investigations

Information relating to a criminal investigation will rarely be disclosed under FOIA and only where there is a strong Public Interest consideration favouring disclosure.

Interests of Third Parties

Where third party interests might be jeopardised by release of information that relates to the personal affairs of individuals and other public authorities.

Fair treatment of an individual

There can be public interest in non-disclosure of information that adversely affects the reputation of an individual.

Balancing Test

In weighing up the relevant strengths of the opposing public interests, it is considered that the public interest would be better served by applying the exemptions as indicated, for the following reasons.

To disclose any information in relation to the Claudy Bombing is believed to be detrimental to the ongoing investigation and proceedings.

In weighing up the balance it is also believed that there would be no benefit to the deceased's families or members of the public by releasing any information while the investigation and proceedings are ongoing.

If you have any queries regarding your request or the decision please do not hesitate to contact 028 9070 0164. When contacting the Freedom of Information Team, please quote the reference number listed at the beginning of this email.

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.

**CONFIDENTIAL – Embargoed Until 12.30pm, Friday 20
December 2002**

**CLAUDY BOMBING - STATEMENT FROM ACC NORTH, SAM
KINKAID**

I have just briefed the injured and the relatives of those killed at Claudy on 31 July 1972, on the initial findings of the review into the investigation.

Three bombs were planted in Claudy. They exploded killing nine people. Over 30 people were injured. Claudy remains one of the worst unsolved atrocities of the troubles.

I commissioned the review in August 2002 following the 30th Anniversary of the bombing. The review is being carried out by a Senior Detective attached to North Region of the Police Service of Northern Ireland. He reports directly to me. The purpose of the review is to see if there are any new or existing lines of enquiry that the PSNI can take forward.

I later amended the terms of reference for the review to include an assessment of a letter purporting to come from a “Father Liam”. This spoke of the involvement of a Catholic priest in the bomb attack. The text of the letter does raise a number of questions as to whether or not it was written by a person who knew the priest in question. The forensic examination of the letter has not yet been completed.

In a search of 1972 papers, information has been found which clearly indicates that a parish priest in the South Derry area was a member of the Provisional IRA and was actively involved in terrorism. Intelligence also indicates that he was involved in the Claudy bomb. Records show he provided an alibi for a person suspected of playing a prominent role in the atrocity. This priest is now deceased. We do not intend to publicly identify the priest or any other suspect in the Claudy incident. Such matters will remain confidential.

An examination of the 1972 and later material has given the review team some understanding of those suspected of involvement in the bomb attack, the part they played and why so many people died at Claudy. We have also tried to discover why no one has

been charged. Our investigations required us to approach both Church authorities and the Government to ask for sight of documents. We are grateful for the assistance given to date.

Our enquiries have revealed that a member of the public briefed the then Cardinal and a senior police officer on the role of the priest not long after the date of the bombing. We have also discovered papers indicating that in late November 1972 the police briefed NIO officials on some of the priest's alleged activities.

In addition, papers were found relating to a discussion held on 5 December 1972 between the Secretary of State at the time, William Whitelaw and Cardinal Conway. This private discussion occurred at one of the regular meetings that they held to address issues relating to the troubles. On 6 December 1972, the day after the meeting, a briefing letter was sent from a senior NIO official to Police Headquarters indicating that the private matter discussed related to the activities of the priest.

The letter of 6 December 1972 indicates that the Secretary of State gave the Cardinal a full account of his disgust at the priest's behaviour and also indicates that the Cardinal knew that the priest was behaving improperly. The letter then states that the Cardinal mentioned the possibility of transferring the priest to Donegal. By January 1973 police reports show that the priest was not being seen in the South Derry area. Intelligence suggested he was working in Donegal. Police cannot find any record that the priest was ever arrested or interviewed about his alleged involvement in the Claudy bombing, or any other terrorist offence.

As the army had primacy in relation to security activities at that time, the PSNI has written to them, the NIO, and the Catholic Church requesting sight of any additional papers in relation to the Claudy bombing, the role of the priest, and subsequent events. This is very much an interim report to the families and they will be briefed on further developments.

There has been some media speculation that the then Bishop of Derry was involved in 1972 in matters relating to the priest. Police have not discovered any evidence of this.

It is clear that the relatives of those who died in the bomb attack on Claudy village and those who were injured have not obtained

justice. I regret this very much and in particular that opportunities to arrest and interview all of the suspects were not taken in 1972. I have told the families that my officers are fully committed to doing everything possible to bring those responsible before the courts. We would therefore appeal to anyone who has information that could assist the police to contact the detectives at Strand Road police station.

ENDS

For further information contact:
PSNI Press Office
028 90 700084/85