



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

## FREEDOM OF INFORMATION REQUEST



**Request Number:** F 2010 02609  
**Keyword:** Crime  
**Subject:** Claudy Bombing

### Request and Answer:

#### Request

I would like to request information relating to the Claudy bombing.

#### Question 1

Did the RUC have any forensic evidence from the Claudy bomb?

#### Question 2

And did this forensic evidence match forensics that the RUC held from previous IRA bombs?

I am writing to confirm that the Police Service of Northern Ireland (PSNI) has now completed its search for the information.

I have today decided to provide an answer to question 1 and in relation to question 2, Neither Confirm nor Deny pursuant to the provisions of Sections 23 ( Information relating to Security Bodies), 24 (National Security), 30 (Investigations) and 31 (Law Enforcement ) of the Act.

#### Answer 1

Yes.

#### Answer 2

In accordance with the Act, this letter represents a Section 17(1) Refusal Notice in relation to question 2. The PSNI can neither confirm nor deny that it holds the information you have requested.

Section 1 of the Freedom of Information (FOI) Act 2000 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 PSNI can Neither Confirm Nor Deny that it holds any information relevant to question 2 as the duty in Section 1(1)(a) of the FOI Act 2000 does not apply by virtue of the following exemptions :

Section 23 (5) Information relating to security bodies.  
Section 24 (2) National Security.  
Section 30 (3) Investigations.  
Section 31 (3) Law enforcement.

Sec 23 is an absolute exemption and therefore I am not required to comment any further. The rest of the exemptions are qualified which means I am required to conduct a public interest test in relation to their usage in neither confirming nor denying the existence of any information.

### **Sec 24(2) National Security.**

#### **Factors favouring confirmation or denial :**

Any confirmation or denial that the PSNI holds such information would allow the public to gauge the appropriate use of public funds in carrying out their national security investigations. In addition it would provide appropriate transparency and reassurance that forensic tests have been effectively carried out at the scenes of crime and subsequently researched against previous bombing incidents in order to provide valuable intelligence/information.

#### **Factors not favouring confirmation or denial:**

Confirmation or denial in this particular case would present a high risk in that the terrorist organisations responsible for the bombings at the time, and who still remain undetected, would be able to act on the information released thereby jeopardising the security or infrastructure of the United Kingdom as they would be able to identify whether their actions have been detected and whether links have or have not been made with previous incidents. In some cases it is possible that such analyses may be assisted by intelligence supplied by one or more of the bodies listed at section 23(3) of the Act. Sections 23(5) and 24(2) are therefore cited in conjunction to protect the involvement or non-involvement of security bodies.

### **Section 30 (3) Investigations.**

#### **Factors favouring confirmation or denial**

The public interest will always be in providing appropriate information that police investigations are being carried out efficiently and effectively. Confirmation of information held in this case could promote public trust in providing transparency, whilst demonstrating openness and accountability into the level of investigations which took place at the time of the incidents.

#### **Factors not favouring confirmation or denial:**

Routine confirmation or denial about the level of information held in any current police investigation could seriously undermine the investigation and prejudice the detection of crime and prosecution of offenders. This would lead to the investigation being prejudiced and would effect the PSNI's future law enforcement capabilities if such information was released before the investigation had been concluded.

Despite the fact that there has been substantial recent media comments concerning particular individuals in respect of this tragic incident, the fact is that the investigation is still open and ongoing and therefore the PSNI consider the release of any information which would identify whether this investigation had been linked to a previous incident other than those already in the public domain would hinder the current investigation. Such a release could also undermine the right to a fair trial should any person be subsequently charged with any offence connected to this enquiry. There may or may not also be a situation where confidential sources have assisted with the investigation and the release of any information could damage that process.

### **Section 31(3) Law Enforcement.**

#### **Factors favouring confirmation or denial**

Confirmation or denial around the information that may or may not be held would assist the public to be better informed about the manner in which certain bombing incidents were linked and who may or may not have been responsible for the atrocities. As previously mentioned, there is already substantial information already in the public domain.

#### **Factors not favouring confirmation or denial**

The forensic examination of any crime scene provides a valuable role in the prevention and detection of crime and the prosecution of offenders. PSNI operational techniques and capabilities would be placed at risk if relevant information were to be released which significantly impacted on any current investigation process as this may/may not identify where the PSNI had been successful in obtaining vital evidence as part of their investigation. Such a disclosure would seriously impact on the operational effectiveness of the PSNI in carrying out its law enforcement role.

#### **Balance Test :**

I am obliged to weigh up the above factors in order to determine whether the public interest lies in maintaining a neither confirm nor deny stance. In this case, the public benefit in being more aware of forensic details is outweighed by the potential risk to investigations.

The PSNI has therefore determined that in all the circumstances of the case the public interest in maintaining the exclusion of the duty to neither confirm nor deny outweighs the public interest in confirming whether or not information is held.

This is because the FOI Act 2000 places a legal obligation on public authorities to confirm in response to a request whether or not any information exists. Therefore without even disclosing the information, the application of an exemption would identify that information was held. A good example would be a simple question such as "*Is John Smith a criminal ?*". To confirm no information is held would tell the world he is not one but to exempt the information would disclose that he is. In all such cases the only way to protect John Smith is to neither confirm nor deny whether the information does or does not exist.

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 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](mailto: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](http://www.psni.police.uk)  
Personal details in respect of your request have, where applicable, been removed to protect confidentiality.