



FREEDOM OF INFORMATION REQUEST



Request Number: F-2013-05770

Keyword: Organisational Information/Governance

Subject: HET Report on Rev Robert Bradford's Murder 14th November 1981

Request and Answer:

Question

Under the Freedom of Information Act 2000, I would like to request the following document:

A copy of the Historical Enquiries Team's report on Reverend Robert Bradford's murder on 14th November 1981 in Finaghy, Belfast.

Answer

Your request for information has now been considered and the decision has been taken not to supply the information you have requested.

The requested report refers to an investigation into the murder of the Reverend Robert Jonathan Bradford MP and Mr Kenneth Campbell, a community centre caretaker, who were shot dead by the Provisional IRA at Finaghy Community Centre, Gerragh Place, Belfast around 11.35am on Saturday November 14, 1981. These deaths are still under review and investigation by the Historical Enquiries Team. I have consulted with the senior investigating officer who is reviewing the material relating to this investigation. It has been decided not to release the information you have requested.

Section 17(1) of the Freedom of Information Act 2000 requires the PSNI, 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 PSNI considered when deciding where the public interest lies, are listed below:

Section 40 (2) Personal information

Section 40 is an absolute exemption and does not require the public interest or harm to be evidenced and articulated to the applicant.

Section 31 (1) (a) (b) Law Enforcement

Section 38 (1) (a) (b) Health & safety

Section 31 is a prejudice based qualified exemption which means that the legislators have identified that the harm (prejudice) in disclosure as well as the public interest considerations need to be evidenced and articulated to the applicant.

Section 38 is a prejudice based qualified exemption which means that the legislators have identified that the harm (prejudice) in disclosure as well as the public interest considerations need to be evidenced and articulated to the applicant.

Section 40 (2) Personal information

Section 40 is an absolute exemption and does not require the public interest or harm to be evidenced and articulated to the applicant.

Public authorities are in general, exempt from the Act's duty to provide access to 'personal data' (as defined in the Data Protection Act 1998).

Where an application for information is made by someone other than the 'data subject' disclosure of that information will often constitute a breach of the Data Protection Act and consequently the public authority will usually be exempt from its duties under the Act as a result of Section 40 (2).

Harm Test

The release of information at this time could jeopardise the well being physically and mentally of witnesses or potential witnesses.

It could be argued that there is a public interest in the transparency of investigations carried out by the police to ensure they are being conducted appropriately and in line with current investigative guidelines. However, the Police Service has a duty of care to all individuals involved in any investigation to ensure effective law enforcement, the prevention and detection of crime and the apprehension and prosecution of offenders. The Police Service will not disclose information which could compromise an investigation either current or not completely resolved whilst there remains a possibility that persons may be made amenable for their crimes.

Section 38 of the Freedom of Information Act 2000 also protects an individual's physical health and mental wellbeing whether the harm is real or perceived. Therefore the PSNI consider that by releasing the information you have requested relating to the investigation around this double murder may have the potential to identify different person/s and would not be in keeping with the Act.

Section 30 (1) - a public authority is exempt from the duty to communicate information where that information has, at any time been held for the purposes of any investigation, which the public authority has a duty to conduct. Even though a considerable amount of time has passed since this double murder the fact that individuals may still be identified, could mean that any further investigation could be compromised or the judicial process hampered.

Public Interest Test

Factors Favouring Release – Section 30

Disclosure could promote public trust in providing transparency, demonstrating openness and accountability into how the investigation took place. It could allow the public to be satisfied that the investigation has been conducted efficiently and appropriately. Disclosure would also show that public funds were being used effectively and appropriately.

Factors favouring Retention - Section 30

The information requested relates to a criminal investigation being conducted by the Historical

Enquiries Team into the deaths.

If the details of the investigation were to be released, the ability of the HET investigation team to progress enquiries would be hampered and undermined if new witnesses or new information were identified in other cases being reviewed by the HET. Release of details of the investigation may affect the confidence of witnesses in other cases to engage with the HET. Confidence in the HET by victim's families could also be severely dented if our abilities to interview witnesses were to be reduced.

It would therefore not be in the public interest to release information that may still be of assistance to the PSNI or HET.

Factors Favouring Release – Section 38

Public safety is of paramount importance to the PSNI and must always be considered so that the PSNI's ability to fulfil its core function of law enforcement is protected. PSNI would not wish to endanger the health and safety of any individual.

Factors favouring Retention - Section 38

Release of information that could identify key witnesses may lead to those responsible identifying the witnesses. Some witnesses are also members of the public and it would not be in their interests to expose them to the risk of identification.

By disclosing the information the risks to individuals would be significant and there would be a loss of confidence in the police service to protect individuals.

Decision

The requirement to withhold information relating to a criminal investigation into the deaths together with personal information, the release of which may affect the health and safety of individuals, must take precedence over the important issues of public accountability and transparency. This means that, at this time, it would not be in the public interest to release that information.

The Historical Enquires Team considers that until all the deaths attributable to The Troubles are investigated, further investigative opportunities may exist and investigative opportunities may be severely hampered by the release of any of this material until all the reviews are complete. Release could also jeopardise any possible judicial process.

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.