



FREEDOM OF INFORMATION REQUEST



Request Number: F-2014-00540

Keyword: Crime

Subject: Murder Investigation

Request and Answer:

It has been reported in the Belfast Telegraph that PSNI 'Murder squad detectives say they have made a DNA breakthrough in the hunt for the killers of an IRA gunman turned informer 15 years ago.', <http://www.belfasttelegraph.co.uk/news/local-national/northern-ireland/breakthrough-in-collins-murder-case-29952239.html>

Question 1

When did the PSNI first become aware that they had 'a DNA profile from the crime scene', what year?

Answer

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

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 30(1)(a) – Investigations

Section 30 is a qualified class-based exemption which means that the legislators have determined that there is no requirement to evidence harm but that a public interest test should be carried out.

Public Interest Test

Factors Favouring Release

Release of the requested information would reassure the public that the PSNI is effectively engaging with its investigative responsibilities and is dealing appropriately with any evidential material it may

hold in respect of an investigation. Releasing the requested information 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 incident.

Factors favouring Retention

Releasing information held in any current police investigation could seriously undermine the investigation and adversely prejudice the detection of crime and the prosecution of offenders. This would lead to the investigation being prejudiced and would effect the PSNI's future investigative capabilities if such information was released before the investigation had been concluded.

The investigation into this murder is still open and ongoing and therefore the PSNI consider the release of any information 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.

While there is public interest in ensuring that the PSNI are fulfilling their investigative role effectively there is a greater public interest in ensuring that investigations are not frustrated and adversely affected by the premature release of information. The premature release of information held in respect of an ongoing investigation could lead to trial by media and adversely impact on the administration of justice and the apprehension of offenders. It is therefore incumbent upon the PSNI to ensure that evidential material is protected by the appropriate use of exemptions.

Decision

Releasing information held by the PSNI relevant to this request would give important information to anyone involved in the murder. Whilst the PSNI would always wish to be transparent and accountable, no release under FOI should be made where an ongoing investigation would be adversely affected.

In this case, the public benefit in being more aware of the investigation details is outweighed by the potential risk to this and future investigations. In this case I am satisfied that the exemption outlined above is applicable to this information. This therefore should be considered a refusal notice in relation to this request.

Question 2

Regards 1 above, have the PSNI had any matches from DNA database, if so, how many?

Question 3

Have the PSNI carried out familial DNA database searches, genetic near matches to help solve the murder of Eamon Collins. If so, how many close matches have there been. If not, why not?

Answer to questions 2 and 3

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

Section 30 is a qualified class-based exemption which means that the legislators have determined that there is no requirement to evidence harm but that a public interest test should be carried out.

Public Interest Test

Factors Favouring NCND

Confirming that information requested exists could promote public trust in providing transparency and demonstrating openness and accountability into how the investigation is taking place. It could also provide reassurance to the public that the PSNI conducts investigations appropriately and allow the

public to have a better understanding of the effectiveness of the police service.

All police investigations are publically funded and disclosing the information will aid the public's evaluation as to whether it has been well spent. Releasing the information would improve the public's knowledge and understanding of the investigatory process.

Factors Against NCND

Confirming that information exists or not could prejudice and potentially damage the criminal justice process as individuals could become aware of what information/evidence is available and thereby those engaged in criminal activity could take action to minimise the risk of being detected.

Confirmation as to whether or not the requested information exists could deter people from engaging with the police during the investigation process as releasing the information would inhibit the co-operation of witnesses to all crimes and this would have a detrimental impact on the level of service that the police could provide.

Investigations must be allowed to be carried out without being threatened by the premature release of information. Releasing the information could assist the perpetrators of the crime by releasing information pertinent to an ongoing investigation. There is a strong public interest in protecting the PSNI's ability to conduct investigations effectively. If the PSNI were to confirm or deny what information it held in this case the investigation would be hampered, which would not be in the public interest.

Decision

The strongest reason favouring disclosure is related to the high profile nature of the crime which has attracted much media interest. However the strongest reason favouring non disclosure is the need to ensure that the ongoing investigation is not prejudiced in any way.

On weighing up the competing interests the public interest favours neither confirming nor denying that the information is held.

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

Question 4

Have the RUC, PSNI deliberately concealed and or covered-up compelling evidence (including important DNA evidence in the Eamon Collins murder to protect PIRA terrorists and or informers involved?

Answer

This is not a request for recorded information and is therefore not a valid question under the terms of the Freedom Of Information Act.

In addition the PSNI can neither confirm nor deny that it holds any other information relevant to your request by virtue of the following exemption.

Section 24(2) – National Security

Section 24 is a qualified and class-based exemption which means that the PSNI is required to evidence the harm and conduct a public interest test.

Harm for the partial NCND

The threat from terrorism cannot be ignored. It is generally recognised that the international security landscape is increasingly complex and unpredictable. The UK continues to face a sustained threat from violent extremists and terrorists and the current UK threat level is set at 'substantial' and In Northern Ireland the current threat is set as 'severe'.

Any information identifying how evidence is gathered could be used to the advantage of terrorists or criminal organisations. Information that undermines investigations will adversely affect public safety and have a negative impact on both national security and law enforcement.

Confirming or denying that any other information is held relevant to this request would provide important information useful to terrorists who would gain a greater understanding of the police's methods and techniques, enabling them to take steps to counter them. This would have the likelihood of compromising future prosecutions as criminals/terrorists could counteract the measures used against them.

Section 24

Factors favouring NCND

The information if held simply relates to national security and confirming or denying whether any other information is held would not actually harm it. The public are entitled to know what public funds are spent on and what security measures are in place, and by confirming or denying whether any other information is held regarding this request would lead to a better-informed public.

Factors against NCND

By confirming or denying whether any other information is held would render security measures less effective. This would lead to the compromise of ongoing or future operations to protect the security or infra-structure of the UK and increase the risk of harm to the public.

Decision

The security of the country is of paramount importance and the Police Service will not divulge whether any other information is or is not held if to do so would undermine National Security. Whilst there is a public interest in the transparency of police investigations and providing assurance that the police service is appropriately and effectively engaging with the threat posed by various groups or individuals, there is a very strong public interest in safeguarding the integrity of police investigations and operations in the highly sensitive areas such as extremism, crime prevention, public disorder and terrorism prevention. Therefore it is our opinion that for these issues the balancing test for confirming or denying whether any other information is held relevant to your request, is not made out.

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 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.psnipolice.uk

Personal details in respect of your request have, where applicable, been removed to protect confidentiality.