



## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2018-02339

**Keyword:** Crime

**Subject:** Legacy Murder Investigations

### Request and Answer:

#### Question

1<sup>st</sup> May 1991: a RUC patrol vehicle was hit by an IRA rocket on Mica Drive, Beechmount, Belfast. Three officers were badly injured. Sergeant Stephen Gillespie died two days later.

One week prior to the murder of Stevie we the blue section were told by SB that there was a rocket out and floating about the bottom end of our area. The local police crews were not allowed to move on the ground but the blues were made to go out and patrol the Beechmounts and the whole sub were Stevie was killed, who gave that direction for us to be cannon fodder, considering the fact that the federation clearly told everyone from the Government to the papers that we were only used for security duties?

#### Answer

Your request for information has now been considered. In respect of Section 1(1)(a) of the Act I can confirm that the Police Service of Northern Ireland does hold information to which your request relates. The decision has been taken not to supply the information you have requested and the reasons for this are set out in more detail below.

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, as well as the factors the Department considered when deciding where the public interest lies, are listed below:

#### Section 30(1)(a) - Investigations and Proceedings Conducted by Public Authorities –

Information held by a public authority is exempt information if it has at any time been held by the authority for the purposes of:

(a) Any investigation which the public authority has a duty to conduct with a view to it being ascertained (i) whether a person should be charged with an offence, or (ii) whether a person charged with an offence is guilty of it

The full text of exemptions can be found at [www.legislation.gov.uk](http://www.legislation.gov.uk) and further guidance on how they operate can be located on the Information Commissioners Office website [www.ico.org.uk](http://www.ico.org.uk).

Section 30 is a qualified and class-based exemption which means a Public Interest Test must be conducted. This exemption covers information held at any time for the purposes of an investigation, whether the case is ongoing, closed or abandoned. An explanation for withholding the requested information is provided below.

## **Public Interest Test**

### Factors Favouring Release

To release information relating to these investigations would reassure the public that the PSNI is effectively engaging with its investigative role. All police investigations will involve the use of public funds and where this is the case there is always a public interest in ensuring that those funds are not used unnecessarily or unwisely.

### Factors Against Release

Disclosure of this information could seriously compromise investigations. While there is a limited amount of information already in the public domain the PSNI would not wish to disclose the focus of LIB (Legacy Investigation Branch) investigations. To do so could alert individuals in connection with the investigations that an investigation is actively being pursued by PSNI, allowing them to destroy evidence, create an alibi or abscond, thus impacting current or future evidence and impeding an investigation.

## **Decision**

A disclosure under the Freedom of Information Act is a release of information to the world in general and not just to the individual requesting the information. Once information is disclosed by FOI there is no control or limits as to who or how the information is shared with other individuals and therefore release of information is deemed a disclosure into the public domain.

The Legacy Investigation Branch is conducting a number of legacy murder investigations and forensic reviews of previous investigations and some information already exists in the public domain. However, releasing a breakdown of the focus of those investigations could alert those in connection with the investigations and allow them to pervert the course of justice, thus impacting current or future evidence and obstructing police in their investigative role.

While there is a strong public interest in releasing the information requested the PSNI must ensure that an investigation is not adversely affected by disclosure. On balance, the requirement to withhold information relating to an investigation, the release of which may affect the outcome of an investigation or court proceedings, must therefore take precedence.

The public interest, in this instance, is therefore best served by not releasing the information to which you seek access.

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](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.