



FREEDOM OF INFORMATION REQUEST



Request Number: F-2019-01247

Keyword: Crime

Subject: IRA Murder of Eamon Collins - DNA profile

Request and 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 some information to which your request relates and this is being provided to you. We do not however hold information in relation to request 11 below. We further consider the information you seek in request numbers 1 – 9 are exempt by virtue of section 30 of FOIA and have detailed our rationale as to why this exemption applies. We have also provided you with links to guidance issued by the Information Commissioner's Office which we have followed in responding to your request.

Request 1

When, what date and / or year, did RUC/PSNI first become aware that blood from the murder scene had been "left by a member of the gang"?

Request 2

Regards 1 above, what date and / or year did RUC/PSNI first make it public that they were aware that a member of the "gang" had "himself suffered a severe injury during this frenzied attack"?

Request 3

Regards 1 and 2 above, what was the reason for the delay in making such vital detail regarding an unsolved murder public?

Request 4

When, what date and / or year, did RUC/PSNI first become aware that DNA of one of the "gang" had been left / recovered from murder scene?

Request 5

Regards 4 above, what date and / or year did RUC/PSNI first make it public that they were aware that they had;

- a, Recovered DNA from the member of the murder scene?
- b, Recovered DNA profile that belonged to one of the "gang"?

Request 6

What date and or year was the DNA first checked on National DNA database by RUC/PSNI (and or any others acting on their behalf)?

Request 7

Does the DNA sample still remain National DNA database? If not, why not?

Request 8

Have RUC/PSNI carried out familial DNA searches (i.e. where criminals whose DNA has never been entered into a DNA database can still be identified through their family members)?

Request 9

Regards 7 and 8 above, Have RUC/PSNI;

- a. Had any 'hits' or matches regards 7 above?
- b. Had any 'hits' / close matches regards 8 above?

Answers to 1 - 9

As previously stated, the information you have requested is being withheld and the following explanation is provided.

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

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

Section 30 is a class based exemption which means that if the information is of the type referred to within the exemption then the exemption applies to it without any consideration of the harm. It is also a qualified exemption which means that a public interest test must be carried out and the factors in relation to this are illustrated below.

Public Interest Test

Factors Favouring Release - Section 30

Disclosing this information would assist in showing that the PSNI are conducting thorough investigations into such incidents. There is much public interest in ensuring that this and any other investigation is undertaken professionally and rigorously and disclosure of the requested information could promote public trust in providing transparency, demonstrating openness and accountability into how investigations take place. Releasing the information may better inform the public and encourage others to come forward to report criminal offences if they know a proper investigation will be undertaken. All police investigations involve the use of public funds and this information could allow the public to make informed decisions about police procedures and the money spent in this business area.

Factors Favouring Retention – Section 30

The information requested is held for the purposes of investigations and therefore if the PSNI were to release the requested information at this time it could seriously compromise and undermine investigations, thus hindering the course of justice by prematurely releasing information resulting in loss of evidence or alerting a suspect. Also, any disclosure could infringe on a suspect's right to a fair trial and also the rights of the victims if a prosecution were to fail due to disclosure of the information. There is a strong public interest in maintaining the Section 30 exemption in order to protect witnesses, and in not deterring potential witnesses from making statements for fear that their evidence might not be treated in confidence. Also for maintaining the independence of the judicial and prosecution process and preserving the criminal court as the sole forum for determining guilt.

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 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.

It would therefore not be in the public interest to release information which would in turn impact on police resources and lead to more crime being committed, placing individuals at risk and an investigation or the outcome of subsequent proceedings could be compromised.

Decision

On balance the requirement to withhold information relating to any investigations and in conjunction with personal information must take precedence over the important issues of public accountability and transparency as by releasing the information which may affect the outcome of any court proceedings must take precedence. The proper detection and investigation of crimes are cornerstones of a modern democratic society and the PSNI's investigative role is of paramount importance and the Police Service **will not** divulge information if to do so would adversely affect any ongoing investigations. Therefore if PSNI were to release the information in question it would lead to a perception that statements given to the police could or would be released to the public at some future date. This perception must inhibit or dissuade some witnesses from giving statements or assistance to the police in future investigations.

Therefore PSNI are satisfied that in this case the public interest factors favouring retention outweigh those favouring release as the interests in accountability can rarely defeat the interests in a fair investigation and trial.

Request 10

How many case reviews, cold case reviews have been carried out by RUC/PSNI in this case since 1999?

Answer

There has been one focused review in 2009 following the original investigation. This case currently sits within the case load of Legacy Investigation Branch.

Request 11

Regards 10 above, how many independent (of RUC/PSNI) reviews have been carried out by an external police force since 1999?

- a. Please also supply dates of said reviews;
- b. If no external reviews have been carried out during past 20 years, explain reasons for same.

Answer

PSNI Legacy Investigation Branch has advised they have found no evidence of an external review having been completed. Therefore there is no information held in relation to this request.

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 Corporate Information Branch, 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 Corporate Information Branch, 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.