

10 April 2012

Your Ref:

Our Ref: 0141/2012

Mr Martin McGartland

Email: <http://www.scribd.com/martymcgartland/d/82463>
971-Martin-McGartland-Strathclyde-Police-and-
Northumbria-Police-Conspiracy-their-Lies-their-Dirty-
Tricks-and-their-Cover-up-in-the-Martin-McGartland-a

Information Management
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173 Pitt Street
GLASGOW
G2 4JS

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Dear Mr McGartland

FREEDOM OF INFORMATION REQUEST REFERENCE NUMBER 0141/2012

With regards to your request for information relating to the review of the response sent to you on 26 July 2011 I can inform you of the following details.

Originally you requested:

- 1. Full details of all/any contact between Northumbria Police and Strathclyde Police during past 13 months, between May 2010 and 21st June 2011, concerning the above case, inquiry.*
- 2. Copies of all/any statements and/or comments given to the press by Strathclyde Police during the past 12 months concerning above case, inquiry.*
- 3. Copies of all/any statements and/or comments given to the press by Strathclyde Police between 17th June 1999 and May 2010 concerning above case, inquiry.*
- 4. Please supply all recorded information held by Strathclyde Police containing any reference to or otherwise referring to IRA or terrorist involvement in the above case, inquiry.*
- 5. Please supply all/any information concerning any other Police forces that Strathclyde Police liaised with between 17th June 1999 and June 2011 concerning the case, inquiry.*

This request was refused by Strathclyde Police by way of Neither Confirm Nor Deny (NCND) that Strathclyde Police hold any information, citing Section 34 - Investigations by Scottish public authorities, Section 35 - Law Enforcement and Section 31 - National Security and Defence.

You then requested a review of this decision which was upheld by our Review Panel so you thereafter requested an appeal of the decision to the Office of the Scottish Information Commissioner (OSIC).

The appeal to OSIC was also upheld and did not require Strathclyde Police to take any further action. Decision Ref 247/2011 on the OSIC website refers.

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In a later request, dated 27 August 2011, you requested sight of information considered by the Review Panel relating to your previous request. Originally Strathclyde Police responded in terms of your request being vexatious (repeated), however, OSIC required the force to consider your request other than in terms of Section 14(1) of the Act which relates to vexatious or repeated requests.

Referring to your original request from last year, detailed at the start of this letter, Strathclyde Police will Neither Confirm Nor Deny that this information is held by the force or is or is not contained within the information you are requesting.

I therefore respond as follows.

By way of background, when an applicant requests a review this request is completed regardless of the original response to the applicant, e.g. NCND, cost exempt, information not held etc. Information considered by the Review Panel, in this public authority at least, is presented in what is termed the review pack.

Each review pack comprises the following:

- Review Decision Log
- Front Sheet
- Original Request
- Acknowledgement Letter
- Any Request Memos sent to appropriate departments to establish what, if any, information is held by the force
- Any Harm or Public Interest Tests (as appropriate)
- Any Central Referral Unit Guidance
- Response Letter to the Applicant
- Review Letter from Applicant
- Review Acknowledgement Letter to Applicant

In relation to your request I have attached a blank copy of a Review Decision Log pro forma for your information and you will be aware that any correspondence already provided to you is otherwise accessible to you in terms of Section 25 of the Freedom of Information legislation.

The remainder of the information requested by you is considered to be exempt in terms of the Freedom of Information (Scotland) Act 2002 (the Act). Section 16 of the Act requires Strathclyde Police to provide you with a notice which: (a) states that it holds the information, (b) states that it is claiming an exemption, (c) specifies the exemption in question and (d) states, if that would not be otherwise apparent, why the exemption applies. Where information is considered to be exempt, this letter serves as a Refusal Notice that information is held and an explanation of the appropriate exemption is provided.

Section 30(b) (i) and (ii) and (c) – Prejudice to Effective Conduct of Public Affairs

The information requested refers to Strathclyde Police information gathered in respect of a Freedom of Information request and resultant review process. The release of such documents would inhibit substantially, or be likely to inhibit substantially, the free and frank provision of advice or the free and frank exchange of views for the purpose of deliberation, and prejudice substantially, or be likely to prejudice substantially, the effective conduct of public affairs.

The documents requested include the provision of advice, conversations and calls made all relative to the review process and that assisted those involved in the decision making process relative to the review. These conversations and the respective advice reflect calls made to and

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meetings with those key stakeholders for purposes which include the exchange of views and provision of guidance in relation to the internal review of a Freedom of Information request. Such calls and meetings must be permitted to take place with candour and freedom and this can only occur with acceptance that their deliberations and advice provided or sought would not be released into the public domain.

By disclosing the above information (even un-redacted), it would inhibit substantially the future success of an internal review in respect of a Freedom of Information request which a public authority is obliged to conduct. Those panel members concerned may not wish to fully express judgment or indeed feel impinged given that their findings will or may be publicly disclosed. The temperament and indeed setting of these reviews would thereafter be rigid with those concerned being less effusive or less candid – this would be contrary to, and counterproductive for any future meetings of this type. I consider that this would impair future reviews and that the interests of third parties and the effective running of the Force would be mitigated in favour of a safe conclusion or finding by the panel.

In this regard, given the nature of business we are concerned in (law enforcement), there is a necessity to gather detailed and sensitive information for the purposes of a review in order to provide that a rounded and balanced debate ensues – disclosure of not only the information but the comments on information would stifle opinion and candidness of deliberation.

This is a non absolute exemption and requires the application of the public interest test.

Public Interest Test

Elements of the public interest test are in favour of disclosure surrounding accountability and providing the public with a robust process for decisions made when a Freedom of Information review is conducted.

Those favouring retention surround the force's ability to effectively respond to and conduct a Freedom of Information review which it has a duty to perform.

Whilst it could be argued that the public interest may be best served through disclosure of the information as it may assist the applicant (and those similar or otherwise interested in the subject) in pursuing what they feel is a right to know what has been considered and evaluated in a review of potential relevant information, I would argue that such information favours non disclosure to ensure a candid, honest and robust flow of information to and within the force.

The importance of frank and candid opinion and assessment of information undertaken in such reviews must be permitted to take place and release of this into the public domain would almost certainly inhibit the candour and freedom with which such assessments and opinions are made. This would result in such reviews being inaccurate in terms of the real level of frankness required, the benchmark, within the force and therefore future reviews would not be as effective or thorough.

On balance, those individuals who undertake Review Panel duties require a degree of unhindered thinking space in which to freely consider all issues in order to provide the most suitable and effective options in each case, and such information is not suitable for public disclosure.

Finally, I believe that it is important to re-iterate that this remains the Force's position in relation to your original request and no inference should be taken from the information provided in this letter as conclusive evidence that the initial information requested exists or does not exist.

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I hope this information is helpful, however, if you are not satisfied with the way in which your request has been dealt with, you are entitled in the first instance to request a review of the decision made by the Force. Should you wish to request such a review, please write to Mrs Sheena Brennan, Information Manager at the above address within 40 working days of receiving this letter. Once informed of the Review Panel's decision, if you are still not satisfied, then you are entitled to apply to the Scottish Information Commissioner within six months for a decision. Contact details are; Office of the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS, telephone 01334 464610. I would like to take this opportunity to thank you for your interest in Strathclyde Police.

Should you require any further assistance concerning this matter please contact me directly on 0141 435 1217 quoting the reference number given.

Yours sincerely

Andrew McCulloch
Freedom of Information Officer

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