



Policy Legacy FOI Team
Headquarters 38 (Irish) Brigade
British Forces Post Office 801

E-Mail: 38X-PolicyLegacy-FOI-Mailbox@mod.uk



Reference: FOI: 2018/05237

Date: 23 July 2018

Dear [REDACTED]

REQUEST FOR INFORMATION – INFORMATION RELATING TO THE MURDER OF WILLIAM MARTIN AND ROY MCILWAINE

I can confirm that your request has been considered under the provisions of the Freedom of Information Act 2000 (FOI(A)), and the process is now complete.

You asked for the following:

“Under the Freedom of Information Act 2000, could you inform me as to whether you hold any documentation that can be disclosed relating to the murder of William Martin and Roy McIlwaine in Ardoyne, Belfast, on 16/05/1976. I request that search be made between the dates of 02/02/1976 and 16/06/1976.”

I can confirm that the MOD holds some information relating to the incident in question, this information has been located in a range of documents, which I have provided relevant extracts at Annex A. These would have been highly redacted as the remaining information they include is outside the scope of your request. If you wish to receive the documents in the redacted format we can provide on request. Also attached are two intelligence reports that make reference to the incident in question which are enclosed at Annex B.

Some of the information you have requested could be exempt under section 23(1) of the FOI(A), which relates to the bodies dealing with security matters, although it is also possible that the information relates to none of the bodies dealing with security matters. Sections 23(1) and 24(1) are being cited in the alternative as it is not appropriate, in the circumstances of the case, to say which of the two exemptions is actually engaged so as not to undermine national security or reveal the extent of any involvement, or not, of the bodies dealing with security matters. Section 23 is an absolute exemption and, if it were engaged in this material, the MOD would not be required to consider whether the public interest favours disclosure of this information.

Any information that is not exempt from disclosure under section 23(1) could be exempt under section 24(1) of the FOI(A), which exempts information from disclosure if its exemption is required for the purpose of safeguarding national security. We cannot say which of the two exemptions is actually engaged, but to the extent that S24(1) might be engaged. We acknowledge the public interest in openness and transparency, but we consider that there is a stronger public interest in protecting national security.

Additionally, all Police Service of Northern Ireland (PSNI) cases remain open and if new evidence comes forward the PSNI will reinvestigate. Release of these documents must be carefully considered under Section 31 (Law Enforcement) of the FOI(A).

I have completed this consideration through a public interest test including consultation with the PSNI who have advised that release of some of the information could adversely impact on any investigative process, and may jeopardise any future prosecutorial process. On this basis I am withholding some of the information under Section 31 of the FOI(A).

I appreciate that this incident took place 42 years ago and the passage of time can be a factor in diminishing the applicability of exemptions to information. However, in this instance the passage of time is less relevant as the PSNI continue to investigate Troubles-related murders and the overall balance is in favour of partial exemption.

In addition, some of the information falls within the scope of Section 38 (Health and Safety) of the FOI(A), as its release could endanger the physical or mental health of any individual, or endanger the safety of any individual.

Section 38 is a qualified exemption and we have conducted a public interest test to determine whether the information should be released or withheld. The factors for this public interest have determined that whilst disclosure would demonstrate openness and transparency this is outweighed by the detrimental effect disclosure could have on those mentioned in the documents, or their family members and friends. I have concluded that whilst disclosure may be of historical interest, the health and safety of individuals must be taken into account especially where release would be likely to endanger the physical or mental health of any individual. Some information has therefore been redacted under Section 38 of the FOI(A).

Some of the information contained within the disclosure constitutes personal information, such as names and addresses. Under FOI(A) this information is exempt under Section 40 (2) by reason of the first condition under Section 40 (3) (a) (i), as disclosure would contravene data protection principles under the Data Protection Act 1998 (DPA 98). This is an absolute exemption and does not require a public interest test to be conducted in order for this information to be exempt from disclosure. Therefore all personal information has been redacted.

If you have any queries regarding the content of this letter, please contact this office in the first instance.

If you wish to complain about the handling of your request, or the content of this response, you can request an independent internal review by contacting the Information Rights Compliance team, Ground Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail CIO-FOI-IR@mod.uk). Please note that any request for an internal review should be made within 40 working days of the date of this response.

If you remain dissatisfied following an internal review, you may raise your complaint directly to the Information Commissioner under the provisions of Section 50 of the FOI(A). Please note that the Information Commissioner will not normally investigate your case until the MOD internal review process has been completed. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website at <https://ico.org.uk/>.

Yours sincerely

38 (Irish) Brigade FOI Team

Verbatim Extracts from Various Documents - Shooting of William Martin and Roy McIlwain -

Death Logs

Name	Date of Death	Location
McIlwaine, R	16.05.76	Belfast
Martin, W	17.05.76	Belfast

Director of Operations Brief dated 16-17 May 1976

2. Belfast.

- a. A Protestant was shot dead and another very seriously injured after 7 shots were fired into a Protestant club in the Alliance.

39 INFANTRY BRIGADE

6. 3 RHA (NORTH BELFAST/ARDOYNE/BONE/NEW LODGE)

- a. The SF¹ were not involved in the only shooting incident reported when at 2304 hours 6 shots were fired, killing the following, at the GLENBRYN (*sic*) SOCIAL CLUB (JOLLY ROGER), 105 ALLIANCE ROAD, ALLIANCE:

Roy McILWAIN (*sic*) [Redacted] [Redacted] DEERPARK PARADE, ALLIANCE

McIlwain (*sic*) was dead on arrival at hospital with GSW to chest and abdomen. A further 2 rounds were fired at the following who is VSI in hospital:

Billy MARTIN [Redacted] [Redacted] GLENBRYNE DRIVE, ALLIANCE

¹ SF = Security Forces

The incident started when a red FIAT [redacted], containing 5 youths, stopped outside the club. Two of the youths, with handguns, got out of the car and shot McILWAIN (*sic*) who was the doorman. They then kicked open the door of the club and fired the 2 rounds inside. The youths escaped in the FIAT which was later found abandoned in HESKETH ROAD, ALLIANCE. A witness stated that the 5 youths transferred into another, dark coloured unidentified car and drove off. The owner of the FIAT is: [Redacted]

Director of Operations Brief dated 18-19 May 1976

39 INFANTRY BRIGADE

5. 3 RHA (NORTH BELFAST/ARDOYNE/BONE/NEW LODGE)

b. Follow up Report. Early in the morning of the 18 May 1976, the following who was very seriously injured in the shooting on 16 May 1976 at the GLENBYRNE SOCIAL CLUB (JOLLY ROGER), 105 ALLIANCE ROAD, ALLIANCE (D of Ops Brief 16/17 May 76 para 6a refers) died in the MATER hospital:

BILLY MARTIN [Redacted] [Redacted] GLENBRYNE DRIVE, ALLIANCE

The RUC TENNENT STREET continue their investigations.

Commander Land Forces Operational Summary – For the 2 Weeks Ending 19 May 1976

GENERAL

6. Shooting Incidents not involving the SF.

..... and the murder of 2 Protestants outside a UDA club in the Alliance, Belfast. The latter incident occurred on 16 May

DIARY OF EVENTS 5-19 MAY 1976

Date	Belfast
Sun 16 May	A Protestant was murdered and another seriously injured outside a UDA club in the Alliance

39 Inf Bde – Diary of Events 1976

Sunday 16th May

A Protestant was shot dead and another very seriously injured when shots were fired at the Glenbryn Social Club (The Jolly Roger), a UDA club in Alliance Road, by two youths. The youths escaped in a stolen car. The injured man died two days later.