



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

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Reference: FOI: 2018/06314

Date: 26 July 2018

Dear [REDACTED]

**REQUEST FOR INFORMATION – ANY INFORMATION RELATING TO THE DEATH OF
CPL JAMES ELLIOTT**

Further to our e-mail dated 7 June, I can confirm that your request has been considered under the provisions of the Freedom of Information Act 2000 (FOI(A)), the process is now complete.

You asked for the following:

"Dear Sir or Madam,

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 Cpl. James Elliott in Newtownhamilton, co Armagh, on 17/04/1972. I request that search be made between the dates of 10/04/1972 and 17/06/1972."

Modified timescale of 13/04/72 – 24/04/72 (Email dated 13 Apr 2018 refers).

I can confirm that the MOD holds some information relating to the murder of Cpl Elliott at Newtownhamilton. 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 at Annex B is the EOD Report that makes reference to the incident in question and at Annex C I have attached 2 intelligence reports that are relevant to the incident.

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.

Some of the information located falls within the scope of Section 26 (Defence) of the FOI(A) as its release would be likely to prejudice the capability, effectiveness or security of any relevant forces. Section 26 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 would have in revealing the capabilities of military operational planning by compromising the methodologies and practices employed in the gathering and analysis of information. I have therefore concluded that the public interest supports withholding some information under Section 26.

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 46 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. Consideration must also be given to the impact release of this information may bring to the wider community

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

Enc:

- Annex A: Verbatim extracts from various documents
- Annex B: EOD Report
- Annex C: Intelligence Reports

Verbatim Extracts from Various Documents Relating to the Death of Cpl James Elliott 3 UDR

Director of Operations Brief Northern Ireland 17 – 18 April 1972

RURAL AREAS

3 INF BDE

5. Abduction. At 1630 hrs JAMES ELLIOTT of 3 UDR was removed from his truck near the border post at Killeen by armed men and taken across the border.

Director of Operations Brief Northern Ireland 19 – 20 April 1972

General

The body of Cpl Elliott 3 UDR was found on the with 7 explosive devices in the vicinity.

RURAL AREAS

3 INF BDE

17. UDR Murder. At 0310 hrs a body was reported on the border at GR 896234 (near Newtownhamilton). It was later identified as Cpl Elliott of 3 UDR who was abducted on 17 Apr. A 500lb homemade explosive device and 6 x 5-10lb claymore devices were found near the road, 100 yds from the body. All the devices were wired up for remote detonation from the Eire side of the border. The Gardai and Eire Army carried out a sweep and located the control point before the body was removed. All the devices were later blown up by ATO.

Director of Operations Brief Northern Ireland 21 – 22 April 1972

RURAL AREAS

3 INF BDE

5. Funeral. The funeral of the late Cpl Elliott UDR took place at Ballyroan. Approximately 2,000 attended. Some stoning however took place.

RMP Gazette 1972

IS No	INV	OFFENCE	DETAILS	DATE OCCURRED	CCRIO
1615	[redacted]	Murder	24199084 Cpl Elliott JD, 3 UDR. Found shot dead at GR 896234 on 19.4.72	17/19/04/72	04672/2

Headquarters Northern Ireland Operational Summary
For The Week Ending 0700hrs Friday 21 April 1972

General

3. The kidnapping and subsequent 'execution' of Cpl Elliott of 3 UDR brought universal condemnation from all sections of the community and press. He was kidnapped on 17 April and discovered two days later found murdered on the border close to Newhamilton (*sic*). His body had been booby-trapped with wires connected to six claymore mines and a 500lb gelignite bomb with wires leading across the border. The Gardai who cleared the Eire side of the border are reported to have arrested two men who were preparing to detonate the bombs on the arrival of the military.

10. Murder of UDR Personnel. The particularly brutal murder of Cpl Elliott of 3 UDR was almost certainly designed to attract headlines and to provoke the Protestant population.

Death Logs – Volume 1

Ser	Name	Address	Killed	Date	UDR
315	J Elliott	Rathfriland	Ballinarea, Newtownhamilton	19 Apr 72	✓

Death Logs – Volume 2

Ser	Date	Rank	Name	Unit	Details of Incident
74	19 Apr 72	Cpl	Elliott	3 UDR	Shot when off duty near Newtownhamilton

Death Logs – Volume 3

Name	Date of Death	Location
Cpl Elliott, J (3 UDR)	19.04.72	Newtownhamilton

HEADQUARTERS NORTHERN IRELAND INTELLIGENCE SUMMARY NO 16/72
FOR THE PERIOD 13 – 19 APR 72

GENERAL

4. Rural Areas

c. ...on 17 Apr 72 Cpl Elliot was kidnapped and murdered sometime during the next 2 days. His body was found near the border on 19 Apr ambushed with a 500-lb bomb and 6 homemade claymore mines.

SITREP dated 18 Apr 72

3. 3 INF BDE

ALPHA. [Redacted] – information redacted as it is outside scope of the request.

BRAVO. UDR MEMBER REMOVED FROM HIS TRUCK NEAR BORDER BY ARMED MEN AND TAKEN ACROSS BORDER.

SITREP dated 20 Apr 72

3. 3 INF BDE

ALPHA. UDR MURDER. BODY OF CPL ELLIOTT 3 UDR RECOVERED ON BORDER. 7 EXPLOSIVE DEVICES IN VICINITY OF BODY, THESE WERE LATER BLOWN BY ATO.

ANNEX B to SUB Report No. 105

Ref Para 2. 2.
6 Drawn of home made explosive as follows:-

[REDACTED]

[REDACTED]

[REDACTED]

Ref Para 3. 2.
The dead body of UK Cpl. Elliott who had been kidnapped 3 days previously was placed about 100 yds from the culvert. As the road by which the SF or police would travel in order to recover the body was very narrow and would be under observation from numerous points in Eire, the terrorists must have assumed that the vehicles would at some stage or other pass over the culvert. When the vehicles reached this culvert then the mine would have been initiated.



Document 1

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POLICE SERVICE OF NORTHERN IRELAND
Intelligence Report

Date/Time of Report	19/04/1972 00:00 BST	Report URN	I000419
Intelligence Type	IN	CHIS PIN	

WARNING - BEFORE TAKING ANY ACTION OR DECISION IN RELATION TO THIS INFORMATION, THE ATTACHMENT MUST BE REVIEWED.	
Grading User	

Report	
Subject	MURDER BOOBY TRAP CO ME ON
Date/Time of Information	[REDACTED]
Information	THE BODY OF CPL JAMES ELLIOT WAS FOUND ON THE BORDER. THERE WERE SEVERAL EXPLOSIVE DEVICES AROUND THE BODY WHICH WERE NEUTRALISED BY ATO. THIS IS AN EXTERNAL REFERENCE: FACT
DSL	General Release
Readership	

Evaluation	
Source	[REDACTED]
Intelligence	[REDACTED]
Handling	
Operation Name/Number	
NIM Level	
Office Of Origin	DATA/CONV

**** CAUTION - DATA PROTECTION ACT 1998 ****

This personal Data is provided to [REDACTED] for the Agreed Specified purpose(s).
This Data must be kept secure and protected against loss or unauthorised access.

**** CAUTION - DATA PROTECTION ACT 1998 ****

15/05/18
12:12 BST

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Page 1 of 2

Document

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Action	
Business Area	
Detailed Handling Conditions	
Dissemination	Historic DSL [REDACTED]
Statistical Information	
Activity	

**** CAUTION - DATA PROTECTION ACT 1998 ****

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Page 2 of 2

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Document 1

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POLICE SERVICE OF NORTHERN IRELAND
Intelligence Report

Date/Time of Report	17/04/1972 00:00 BST	Report URN	1000418
Intelligence Type	IN	CHIS PIN	

WARNING - BEFORE TAKING ANY ACTION OR DECISION IN RELATION TO THIS INFORMATION, THE ATTACHMENT MUST BE REVIEWED.	
Grading User	

Report	
Subject	KIDNAPPING BORDER WITH EIRE
Date/Time of Information	[REDACTED]
Information	CPL JAMES ELLIOT, 3UDR, WAS ABDUCTED FROM HIS TRUCK NEAR THE BORDER AT KELLEEN. THIS IS AN EXTERNAL REFERENCE: FACT
DSL	General Release
Readership	

Evaluation	
Source	[REDACTED]
Intelligence	[REDACTED]
Handling	
Operation Name/Number	
NIM Level	
Office Of Origin	DATA/CONV

Action

**** CAUTION - DATA PROTECTION ACT 1998 ****

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Business Area	
Detailed Handling Conditions	
Dissemination	Historic DS [REDACTED]
Statistical Information	
Activity	

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