



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

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



Reference: FOI: 2018/07862

Date: 2 August 2018

Dear [REDACTED]

REQUEST FOR INFORMATION – THE ABDUCTION OF LCPL [REDACTED] AND MURDER OF LCPL K NEWELL ON 26 NOVEMBER 1991

Thank you for your e-mail dated 7th June, 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:

"I refer to your letter to me dated 30 May 2018 your reference FOI: 2018/06312 and thank you for your help and reply.

I refer to the following paragraph in your letter to me as follows:

"Under Section 16 of the Freedom of Information Act 2000 (Duty to provide advice and assistance), we are aware from past experience that there are some documents that we could locate easily within the time limit however this would not cover all information requested. If you would like us to produce these documents please submit a new request, however, please note that exemptions may apply to these documents."

In relation to the above paragraph please accept this email as [REDACTED] request as per the following sentence contained in the paragraph above and outlined below in bold.

"If you would like us to produce these documents please submit a new request, however, please note that exemptions may apply to these documents."

I thank you for your help in this matter and look forward to hearing from you in due course."

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 at Annexes B and C are extracts of two Daily Operations Briefs that makes reference to the incident in question.

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.

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 nearly 27 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 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

Annexes:

- A. FOI 2018/07862 dated 2 August 2018 (Extracts of various documents with exemptions applied)
- B. FOI 2018/07862 dated 2 August 2018 (Daily Operations Brief dated 27-28 Nov 91. Exemptions applied and contains information out of scope of your request)
- C. FOI 2018/07862 dated 2 August 2018 (Daily Operations Brief dated 28-29 Nov 91. Exemptions applied and contains information out of scope of your request)

Verbatim Extracts from Various Documents Relating To The Abduction of LCpl [Redacted] and the Murder of LCpl K Newell – 26 Nov 1991

HQNI Operational Summary – for the Period November 1991

- i. Nov 27. Two UDR soldiers, LCpl Newell (PC) and Pte [Redacted] (PT), were abducted by PIRA whilst delivering soft drinks to a garage located near BCP 34, south of Crossmaglen. LCpl Newell was murdered. Pte [Redacted] was released.

3 Inf Bde Diary of Events – 01 - 30 Nov 91

20. 1430 hours. Abduction And Murder, Crossmaglen (3RGJ)
(Belated Entry) Two men were making a delivery of soft drinks for Cantrell & Cochrane to [Redacted] garage at BCP 34, they disappeared. At 1930 hours an anonymous male caller to the garage told the proprietor to inform Cantrell & Cochrane that they no longer needed the lorry. The company then informed the RUC. At 270127 hours one of the men telephoned the RUC from a callbox near [Redacted], saying that he had been set free; he was recovered to Newry Hospital. At 271018 hours a caller informed the RUC that a body was lying near the location where the first man was picked up. The IRA later stated they executed an abducted man after interrogation. At 272215 hours ATO was tasked to recover the body.

Unit Historical Record – 3rd Battalion The Royal Green Jackets – 1 April 1991 – 31 March 1992

Summary of Serious Incidents
ARB TAOR Sep 19 – Mar 92

Ser	Date	Type if Incident	TAOR	Remarks
(a)	(b)	(c)	(d)	(e)
6	26/27 Nov 91	Abduction + Murder of UDR	XMG	2 x UDR Slider Pte [Redacted] and L/Cpl Newell abducted 26 Nov from BCP 34. Part-time member [Redacted] released on 27 Nov. L/Cpl Newell murdered + body dumped S of Cullyhanna. Subsequent clearance complete on 28 Nov. involving 18 multi.

List of Deaths 1012 Vol 2

NAME	DATE OF DEATH	LOCATION
LCpl NEWELL, K A (4/6 UDR)	27.11.91	Crossmaglen

Deaths 1991 - List of Deaths 1012 Vol 2

SER	DATE	NAME	ORG	DETAILS
87	27 Nov 91	24489787 LCpl NEWELL KA	UDR	Abducted by gunmen at [Redacted] Garage, Crossmaglen on 26 Nov. Body dumped at Cregganduff Rd, nr Crossmaglen. LCpl NEWELL had been tied-up & shot once in the head. (PIRA claimed)

RESTRICTED

DAILY OPERATIONS BRIEF

PERIOD: 270700Z - 280700Z NOV 91

NO: 332/91

Ø 24489789 LCpl Newell K.A.
4/6 UDR B Coy (AC)
OOB: [REDACTED]



Smith

NORTHERN IRELAND

PROVINCE SITREP

931/10

*Subs @ SF - Planned
1 x UDR (K)*

3 INF BDE

03 BOE/Rural GRH [REDACTED] H/O'BEGGAN NORTH
 1. 261430Z. ABDUCTION AND MURDER. CROSSMAGLEN (3 RGJ).
 (Related Entry) Two men were making a delivery of soft drinks for Cantrell & Cochrane to [REDACTED] garage at BCP 34, GR [REDACTED], they disappeared. At 1930Z an anonymous male caller to the garage told the proprietor to inform Cantrell & Cochrane that they no longer needed the lorry. The company then informed the RUC. At 270127 one of the men telephoned the RUC from a callbox near Freeduff House, GR 937188, saying that he had been set free; he was recovered to Newry Hospital. At 271018Z a caller informed the RUC that a body was lying near the location where the first man was picked up, GR [REDACTED]. The IRA later stated they executed an abducted man after interrogation. At 272215Z ATO was tasked to recover the body. The follow up continues. (Rule of Death - 27/11/91)

231/01

2. Information outside scope of your request
[REDACTED]

4. Information outside scope of your request
[REDACTED]

5. Information outside scope of your request
[REDACTED]

RESTRICTED
DAILY OPERATIONS BRIEF

PERIOD: 280700Z - 290700Z NOV 91

NO: 333/91

333/01

Information outside scope your request

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NORTHERN IRELAND

PROVINCE SITREP

3 INF BDE

Conroy 331/10

1. 281110Z. RECOVERY OF BODY, CROSSMAGLEN (3 RGJ). (Daily Operations Brief 332/91 refers) ATO recovered the body found near Freeduff House; it was then flown to Bessbrook where it was identified as LCpl Newell who had been abducted on 26 Nov 91. LCpl Newell had been tied up and shot once in the head.

2. Information outside scope of your request

3.

4.

*

5. Information outside scope of your request

8 INF BDE

6. Information outside scope of your request

39 INF BDE