



Policy Legacy FOI Team
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Reference: FOI: 2018/11723

Date: 30 October 2018

Dear [REDACTED]

REQUEST FOR INFORMATION – INFORMATION RELATING TO THE MURDER OF CONS STUART MONTGOMERY AND MARK EVANS IN CAPPAGH, CO TYRONE ON 7 SEPTEMBER 1981

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 Constables Stuart Montgomery and Mark Evans in Cappagh, Co. Tyrone, on 07/09/1981. I request that search be made between the dates of 05/09/1981 and 14/09/1981.”

I can confirm that the MOD holds some information relating to the incident which resulted in the deaths of Cons Stuart Montgomery and Cons Mark Evans. 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 IED Incident Report No: 137354 and attached at Annex C is a pictorial extract of The Daily Operations Brief.

Some of the information you have requested could be exempt under section 23(1) of the Freedom of Information Act, 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 37 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 would have on family members, friends or relatives. I 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 Act.

Additionally, 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: 6 UDR Log Sheets, Dated 7 Sept 81
 RUC Deaths 1969 – 1990
 G3 Death Logs Vol 2
 3 Inf Bde History
 EOD Log Book 7 – 8 Sept 81

Annex B: IED Incident Report No: 137354

Annex C: A Pictorial extract of the Daily Operations Brief 7/8 Sept 81 containing the paragraphs relevant to your request. All other information is outside scope of your request.

**Verbatim Extracts from Various Documents Relating to the Murder of Cons Stuart Montgomery and Cons Mark Evans in Cappagh on
 7 September 1981**

6 UDR Log Sheets dated 7 Sep 81

Serial	Time	To	From	Event	Action	Sign
8	1707	OPS	RUC	UNCONFIRMED REPORT OF LAND MINE ATTACK AGAINST RUC VEH.	RUC SUGGEST EXPL AT 6965 OMAGH SECTION STOOD BY	
9	1723	0	R13C	Grid of explosion GR 693651. Veh wrecked. 1 dead.	PASSED TO BDE	
10	1729	0	RUC	1 body found but 1 other definitely dead.	LOGGED	
11	1733	0	R13C	Culvert bomb. Crater 30' across and 10' Deep. The veh has been blown 100mtrs off the road and there is nothing left except the chasis.	LOGGED	

RUC DEATHS – 1969 – 1990

Ser	Date of Death	Rank	Initials	Surname	Location
(a)	(b)	(c)	(d)	(e)	(f)
	7 Sep 81	Const	W M	EVANS	Cappagh] Expl
	7 Sep 81	Const	S J	MONTGOMERY	Cappagh]

G3 Death Logs Vol 2

NAME	DATE OF DEATH	LOCATION
EVANS, W M RUC	07.09.81	Cappagh
MONTGOMERY, S J RUC	07.09.81	Cappagh

3 INF BDE HISTORY

On 7 September 2 RUC men on their first patrol were killed by a 700lb bomb between Cappagh and Pomeroy.

EOD Log Book 7-8 Sep 81

EOD No	DTG Tasked	Bde and Unit	Type of Incident	Operator	Location	Grid Ref	Incident	EOD Location	Explosives	Dets	Remarks	HQ 321 EOD Use only	
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(j)	(k)	(l)	(m)	(n)	(o)
137354	071745 SEP	3/RUC	EXPL	[Redacted]	1 km SE of Cappagh	5/694653	At approx. 1710hrs 2 RUC vehicles were travelling SE away from Cappagh. As the 2 nd vehicle crossed the culvert there was an explosion which threw the vehicle 100m off the road, killing both occupants. Both occupants of the leading vehicle are suffering from shock.	360° Sweep of Crater has been made. Forensic collected and the bodies recovered. CW has been located and traced to the FP. Action at the FP will take place on 8 Sep. The area is still secure.	Est 200 + Kg HME Type N/K	N/K	Further details to follow	N/A	A

RESTRICTED
 IED INCIDENT REPORT

1. Formation and Unit 3 BDE/RUC				2. Report No 137354						
3. Contact, Rank and Name [redacted]				4. Type of Incident HEB/EXPL/ISCOX/INB/HOAX/KADSEXHXO						
5. Operator's Name and Code [redacted]		6. DTG Tasked SEPT 07		7. DTG Out SEPT 07		8. DTG of EOD Action (Arrival at Scene) SEPT 07		9. DTG Completed SEPT 08		
10. DTG In SEPT 08			11. Map Reference 694653			12. Location ON ROAD 1km SE OF CAPPAGH		13. Multi Task (other report No's) NIL		14. Miles HELI 000
15. DTG xxx/xxxx FOUND SEPT 07 1710		16. Day EXPL 2		17. Position of Device IN CULVERT UNDER ROAD				18. How Delivered N/K		
19. Container, Size and appearance SUSPECT MILK CHURNS								20. Fastening N/K		
21. Operator's Action [redacted]										
22. Operator's Comments AT APPROX 1710 hrs TWO RUC VEHICLES WERE TRAVELLING ALONG THE CAPPAGH BALLYREAGH RD AND AS THE SECOND VEHICLE CROSSED THE CULVERT THERE WAS AN EXPLOSION KILLING BOTH OCCUPANTS OF THE VEHICLE. BY THE TIME MILITARY FORCES ARRIVED AT THE SCENE THE RUC HAD LOCATED AND SECURED THE FIRING POINT.						[redacted] Stolen/Hijacked YES/NO YES/NO				
24. Target RUC						25. DTG of Explosion SEPT 07 1710		26. Tasked before or after explosion AFTER		
27. Explosive Filling (Type and Wt) EST 200 + kgs HME TYPE N/K				28. Booster (Type and Wt) N/K			29. Initiation N/K			
30. Delay to Initiation N/K				31. Arming MANUAL SWITCH			32. Delay to Arming NIL			
33. Power Source [redacted]		34. Multi Charge YES/NO N/K		35. Multi Charge Linked by N/K		36. Shrapnel (Type and Wt) N/K				
37. Device Type BLAST / AMBUSH		38. If Anti-Handling/Booby Trap - Device Details N/K								
39. Reason Device Failed to Function N/A						40. Effect of Explosion/Incendiarics [redacted] [redacted] [redacted] [redacted] [redacted]				
41. Police Station RUC POMEROY						42. DIPS X/BLAST/ISCOX/CATO/THRO' SOCD				
43. SATO's Comments RUC at scene warned of possible second device for future reference. 14 Sept 81.						44. CATO's Comments				

~~RESTRICTED~~

G3/BF/31/0004
251/81

7/8 Sep 81

DAILY OPERATIONS BRIEF

TEXT



NORTHERN IRELAND

3 INF BDE

1. At 1715 hrs a culvert bomb exploded underneath a RUC veh near CAPPAGH. The occupants of the veh 2 RUC Cons were killed.

ANNEX A TO
D OPS BRIEF
Dated 8 Sep 81

3 INF BDE

25/81

CWIED CAPPAGH (8 UDR)

PIRA.

MONDAY

At 1715 hrs a culvert bomb exploded underneath the rear veh of
a RUC double mob ptl at

350m twinplex 1x EXPL (CWIED)

250/01

GR-693651

NR CAPPAGH

2x RUC (K)

200 kg

The explosion threw the car, an armoured Cortina, 80m backwards
killing the occupants RUC Cons Evans and Montgomery and producing
a crater in the rd 20m x 4m.

The device is thought to have comprised approx 300 kgs of HME
contained in milk churns. A CW led to a FP on high ground 600m
to the East at

come on - reported forest fire
(Carson)

GR 697650

The occupants of the leading veh were unhurt.

Incident Report
No 12