



Policy Legacy FOI Team
Headquarters 38 (Irish) Brigade
British Forces Post Office 825

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Reference: FOI 2021/08464

Date: 21 September 2021

Dear [REDACTED]

REQUEST FOR INFORMATION – INFORMATION RELATING TO THE DEATH OF COLUM MARKS ON 10 APRIL 1991

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 stated the following:

“Under the Freedom of Information Act 2000, I wish to request copies of the following hard copy documents in relation to the fatal shooting of Colum Marks on 10 April 1991, in Downpatrick, Co. Down. The following reports are requested:

***Unit Incident Report (Increp) issued by Bn HQ 3 UDR;
ATO request for the clearance of the site;
NI Report covering the period of his killing;
Weapons Intelligence Report collated by personnel from 39 Inf Bde Weapons Intelligence Section;
Serious Incident Report covering the whole incident from Initial Report to final clearance;
Any other document held in connection with this incident.”***

I can confirm that the MOD holds some information relating to the death of Colum Marks. This information has been in a range of documents and relevant extracts of these have been provided at Annex A. Also enclosed at Annex B is a copy of the IED Report and at Annex C a copy of the EOD Report. Please note that all information that is redacted using a black box represents information that has been redacted under a Freedom of Information exemption.

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 requested falls within the scope of Section 26 (Defence) of the FOI(A) as its release would or 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 the terrorists. I have therefore concluded that the public interest supports withholding this 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).

Section 38 (Health and Safety) 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 considered. Some information has therefore been redacted under Section 38 of the FOI(A).

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 2018 (DPA 2018). 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.

I appreciate that this incident took place 30 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 deaths and the overall balance is in favour of partial exemption.

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.gov.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 a range of documents dated 14 September 2021

Annex B Copy of IED Report dated 4 April 1991

Annex C Copy of EOD Report dated April 1991

**Verbatim Extracts from Various Documents – Shooting of
Colm Marks in Downpatrick – 10 April 1991**

Daily Operation Brief – 10-11 April 1991

3 INF BDE

5. 102216A FAILED MORTAR ATTACK, DOWNPATRICK (3 UDR)

At 2216 a shooting incident occurred in the area of Saint Patrick`s Avenue, GR [Redacted] and resulted in a suspect terrorist being fatally wounded and one arrest being made by SF, ATO was tasked and located a Mk 12 mortar at GR [Redacted] and the firing point, GR [Redacted]. A radio transceiver was found on Saint Patrick`s Avenue, GR [Redacted]. The follow up is continuing.

¹ Colm (*sic*) Hugh John MARKS (PIRA)

33 yrs

G3 Ops HQNI Log Sheet – 11 Apr 91

Serial	Time	To	From	Event	Action	Sign
02	0239		RUC	Colm marks (<i>sic</i>) South Down PIRA has died	[Redacted]	[Redacted]

¹ The content that we have highlighted was a handwritten addition to the original document.

Death Logs

Deaths - 1991

Ser	Date	Name	Org	Details
20	19 Apr 91	Colm (<i>sic</i>)Hugh John Marks	PIRA	Shot and fatally wounded when RUC engaged terrorists launching a MK 12 Mortar Attack

1991										
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)		(J)
1967	10 Apr	Mr	CH	MARKS	RC	29	Downpatrick	Shot	PIRA	199110003

HQ 3 INF BDE SERIOUS INCIDENT REPORT 52/91

SHOOTING OF TERRORIST, RECOVERY OF MK12 MORTAR, DOWNPATRICK – 10 Apr 91

OUTLINE

1. At approximately 102210A Apr 91 and RUC patrol observed a number of men behaving in a suspicious manner in the area of [Redacted], DOWNPATRICK (GR [Redacted]).
2. The RUC challenged the men and as a result shots were fired. A wounded man was arrested, and another individual escaped on foot. The wounded man later died of his injuries.

3 UDR SERIOUS INCIDENT REPORT 02/91

FIND OF MK12/SHOOTING ST PATRICK'S AVE, DOWNPATRICK – 10 APR 91

INTRODUCTION

1. On Wed 10 Apr at approx 2210 hrs, and RUC patrol saw three men acting suspiciously in the area of [Redacted], Downpatrick. During the follow-up action one person was shot, one arrested and one managed to escape.

THE INCIDENT

2. At approx. 2210 hrs on Wed 10 Apr and RUC patrol saw three men acting suspiciously in the area of [Redacted], Downpatrick GR [Redacted]. During the patrol's immediate follow up one person was shot, one arrested and one managed to escape. The area was cordoned off and during a follow up action by ATO a MK12 mortar was recovered from the drive of [Redacted] St Patrick's Ave. The casualty was taken to Downe Hospital, Downpatrick, but he died a short time later. He was Colm (**sic**) Marks, [Redacted], Downpatrick.

Intelligence Reports

Dated 10/04/1991

Incident Description	Fatal shooting of Colm (sic) Marks by security forces 10.4.91 Marks was preparing to launch an attack at St Patricks Avenue, Downpatrick ATO confirmed that MK 12 mortar complete with launcher was in situ and was ready to fire
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Dated 12/04/1991

Information	19. 11 Apr Shooting Downpatrick During shooting incident and find of MK 12 mortar on DOWNPATRICK on the evening of 10 Apr 91, Colm(sic) Hugh MARKS was shot and fatally wounded by SF
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Dated 01/05/1991

Information	31. 10 Apr Fatal Downpatrick at 2216hrs (TBC) in a shooting SHOOTING incident in DOWNPATRICK 1 times terrorist was injured and 1 times terrorist captured. 1 terrorist possibly escaped. Possible find of
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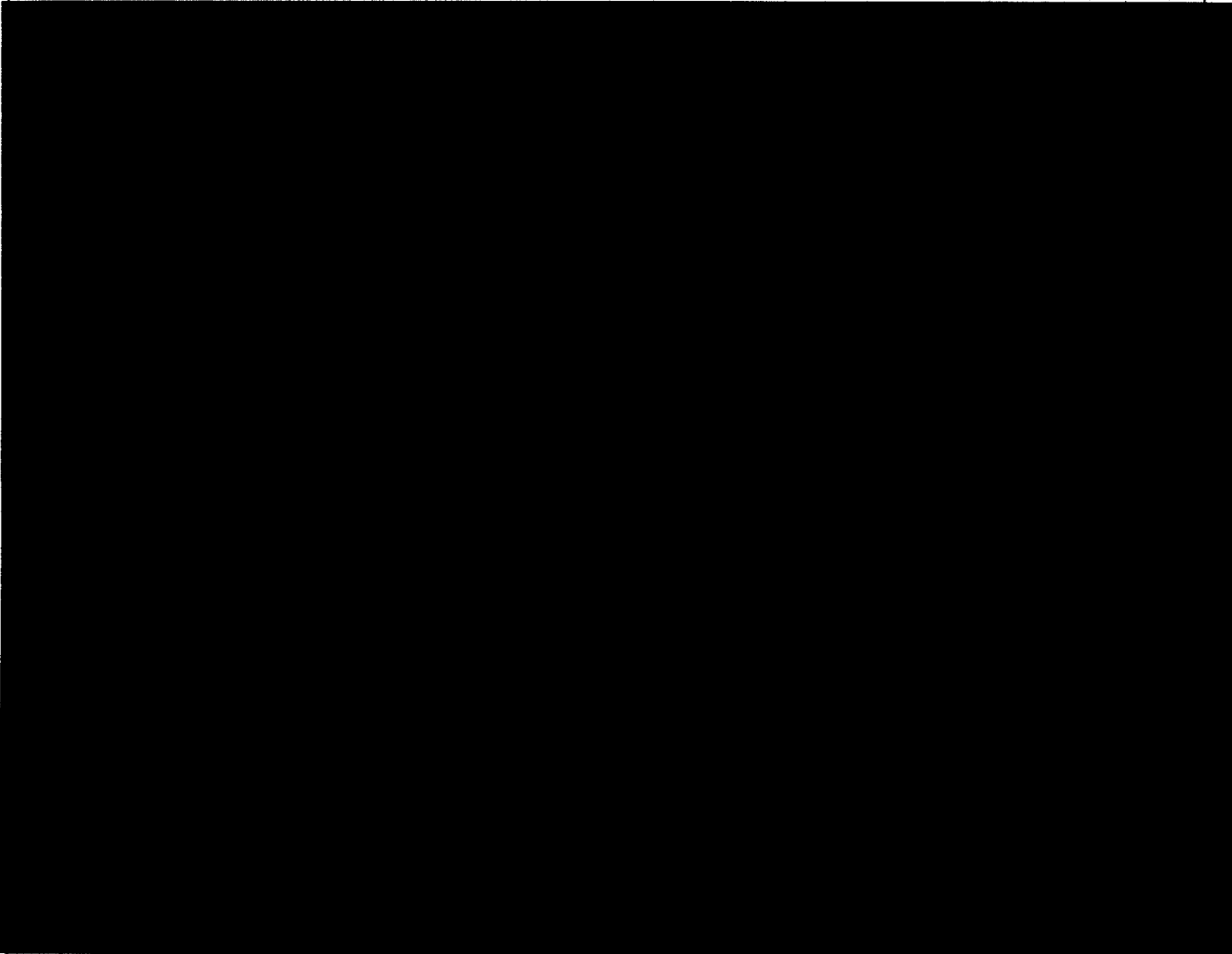
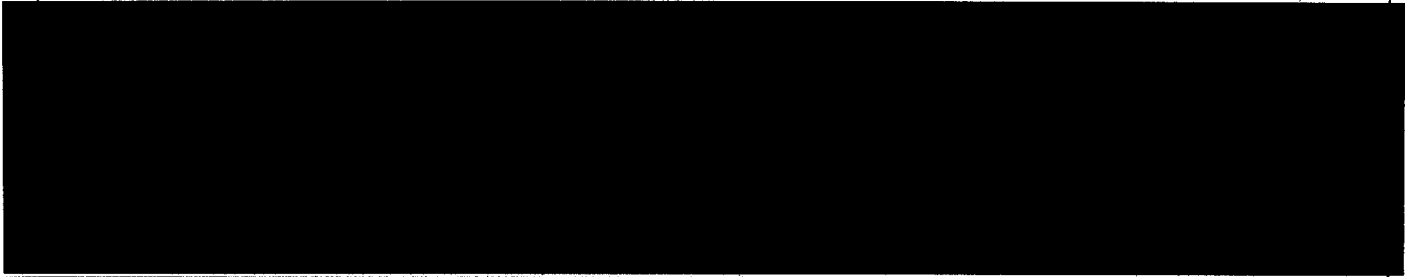
	mortar GR [Redacted]. ATO Armagh tasked at [Redacted]. Follow up in progress 35. 11 Apr Shooting Downpatrick During shooting incident and find of MK 12 mortar in DOWNPATRICK on the evening of the 1- Apr 19, Colm Hugh MARKS was shot and fatally wounded by SF 42. 13 Apr Funeral Funeral of Colm(<i>sic</i>) Hugh MARKS, mourners approx. 400. NFTR
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Dated 08/08/1991

Information	f. The MK 12 Mortar, which despite the recent set back after the death of Colum Marks, is still flavour of the month
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42. Operator's Comments (including Sketches etc)

a. During the evening of 10 Apr 91, members of the SF were involved in a contact with terrorists, during which Colm Marks was shot and fatally wounded. At least one other terrorist escaped. During the immediate follow up a probable Mk 12 mortar device was found, hence tasking.



43. Operator

Signature

[Redacted Signature]

Date

25 4 91

44. OC Unit/Det Comments

Signature

[Redacted Signature]

Date

[Redacted Date]

45. Tasking Authority Use Only

Signature

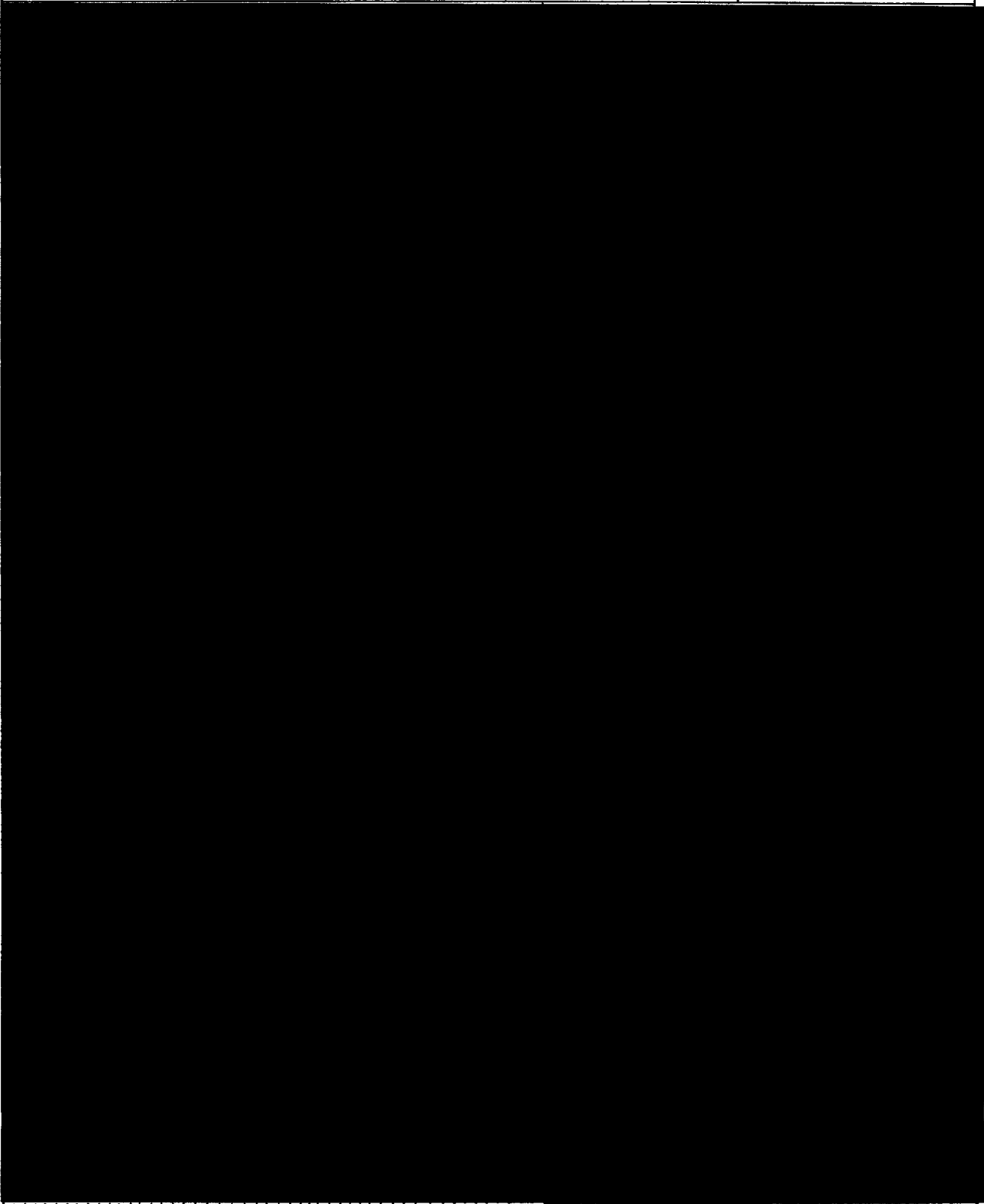
[Redacted Signature]

Date

20 May 91

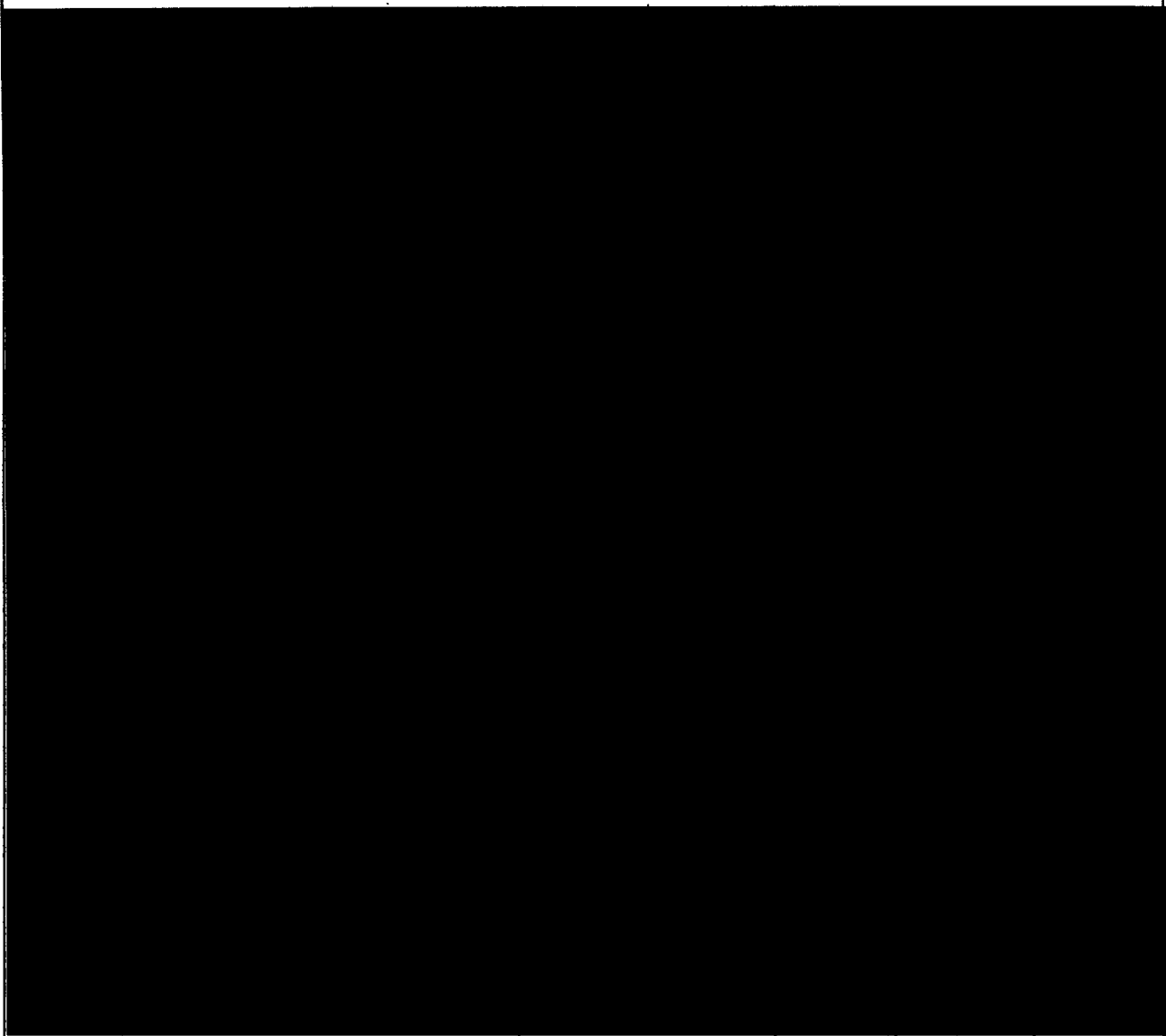
Title
TECHNICAL DETAILS OF DEVICE

Report No
156974



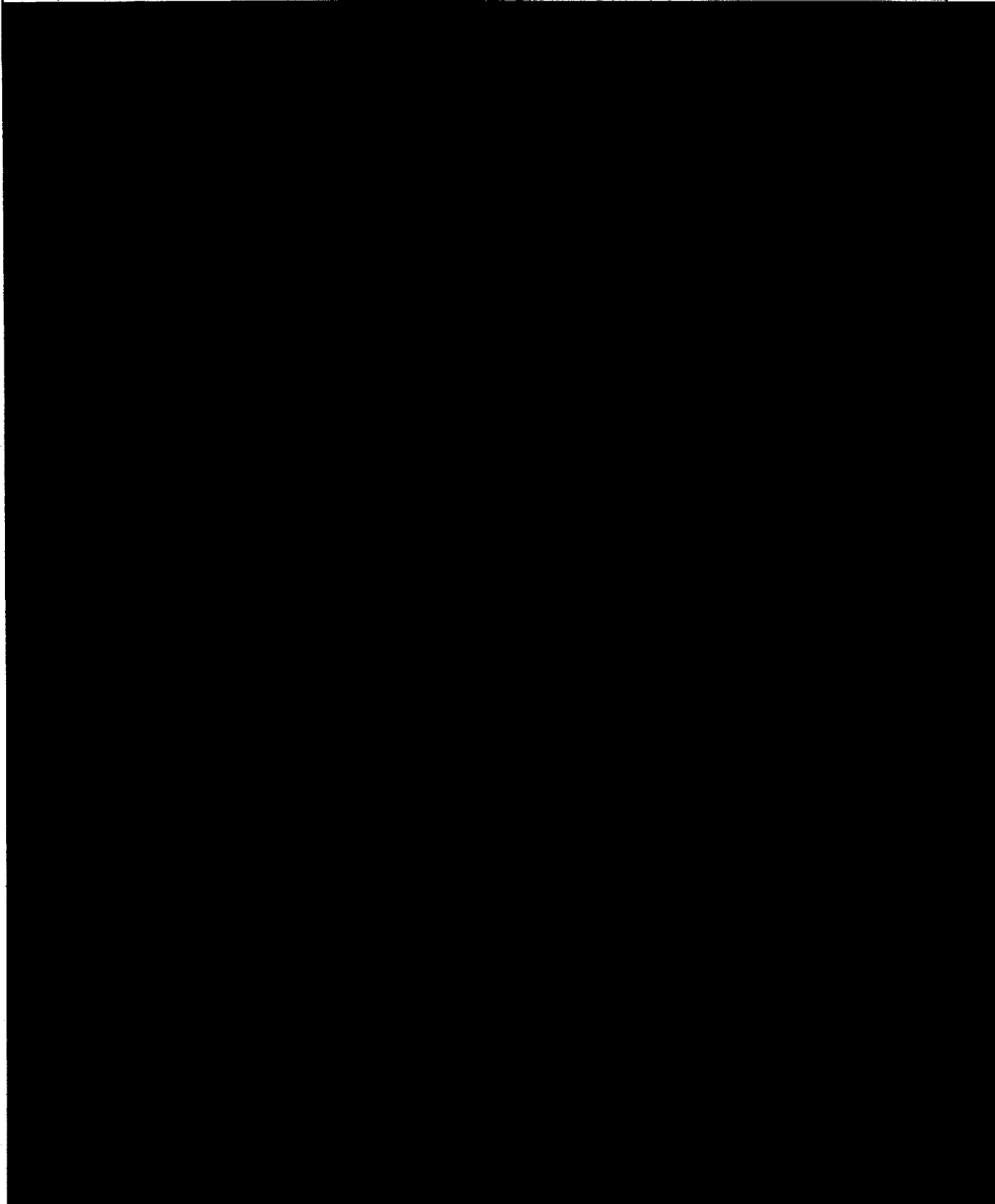
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	Date
	Rank

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	Date Rank

EOD/AD/91/0002
321 EOD COY RAOC ROBOPHONE REPORT

Annex C
 FOI 2021/08464
 dated 21 September 2021

Detachment ARMAGH

1. TASK NUMBER/Bde 156974 3	2. DTG TASKED [REDACTED] APR 91	3. OPERATOR [REDACTED]	4. UNIT 3DR	5. INCIDENT TYPE [REDACTED] X1
6. LOCATION OF INCIDENT <p style="text-align: center;">DOWNPATRICK ST PATRICKS AVENUE.</p>				
7. GRID REF <p style="text-align: center;">48694419</p>				
8. INCIDENT SCENARIO <p style="text-align: center;">1x terr wounded, later died 1x terr arrested 1x terr escaped</p> <p style="text-align: center;">'Members of SF' identified poss Mk12 mortar.</p>				
9. RSP CODES <p style="text-align: center;">Fence Post - [REDACTED]</p>				
10. WHEELBARRROW PERFORMANCE <p style="text-align: center;">[REDACTED]</p>				
11. OPERATOR COMMENTS <p style="text-align: center;">Mk 12 mortar balanced on 'wheely bin on its side'</p>				

TOTAL P.02