

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED] [Advisory Council Secretary](#)
Subject: FoI Panel 5
Date: 01 August 2010 15:55:20
Attachments: [FoI Panel 5](#)

Redacted under s40(2) of the FOI Act

I am attaching our report - agreed by all three of us.
Best wishes

[REDACTED]

--

[REDACTED]

Lord Chancellor's Advisory Council

Freedom of Information requests: Panel 5

We are agreed that all of these deal with matters that can affect the UK's foreign relations adversely, can impinge on unsolved legal cases, or involve potential harm to individuals. We appreciated the reasons provided for non-disclosure and we therefore support non-disclosure in all of these cases.

[Redacted]

Redacted under s40(2) of the FOI Act

[Redacted]

This material is Out of Scope for this request

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

TNA ref: F0024766

Cochrane murder (unsolved)

We support non-disclosure for the reasons presented to us.

[Redacted]

[Redacted]

From: [REDACTED]
Sent: 28 September 2010 16:11
To: [REDACTED]
Subject: F0026066

Redacted under s40(2) of the FOI Act

Dear [REDACTED],

Relative to the above request for information from MEPO 2/9894.
The advice from our Specialist Crime Review Group is that the information that the requestor is asking for remains sensitive in the context of the overall case and its disclosure could impede a future investigation into this unsolved murder. Therefore if the information the requestor is asking for is on MEPO 2/9894, we would wish it to remain exempt from disclosure under FOIA, citing s.31.

Regards
[REDACTED]

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use of approved encryption;

- * containing personal data for use other than in accordance with
the notification(s) under the Data Protection Act, 1998 of the
system(s) from which the data originates.

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From: [REDACTED]
Sent: 13 October 2010 17:06
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: F0026066 [UNCLASSIFIED]

Redacted under s40(2) of the FOI Act

Categories: UNCLASSIFIED

Dear [REDACTED]

I have examined the file and can confirm that there is information there about how he received his injury, there is a statement from his cousin and there are lots of discussions but I can not see if any are directly from or to the home office.

However I think we have sufficient to say that there is information in the file that would match what he has requested but that this information would affect S31 and so he can't have it.

Please let me know if you agree with this proposal.

Regards

[REDACTED]

[REDACTED]

FOI Assessor
Freedom of Information Centre
Tel: [REDACTED]
The National Archives, Kew, Richmond, Surrey, TW9 4DU
www.nationalarchives.gov.uk

From: [REDACTED]
Sent: 14 October 2010 09:01
To: [REDACTED]
Subject: F0026066

Redacted under s40(2) of the FOI Act

Dear [REDACTED],

Relative to the above request for access to MEPO 2/9894.

As you say, it looks as if the information the requestor wants access to concerning the injury to Mr. Cochrane and the cousin's statement(s) is within the file; I agree with your recommendation that this information should be exempt from disclosure citing s.31.

Presumably we will require a PIT for this; if so I shall cite the expert advice from our SCD20 Crime Academy in the factors against disclosure.

Regards

[REDACTED]

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From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: F0026066 [UNCLASSIFIED]
Date: 14 October 2010 09:00:00

Redacted under s40(2) of the FOI Act

Sorry I forgot to say that while I was looking for the information I discovered that he was married and had a wife and child in new York. The child was born in 1953 and though the parents were estranged the daughter would have known who her father was and so I would recommend that the closure is extended when we next do a PIT till 2054.

[REDACTED]

[REDACTED]

This material is Out of Scope for this request

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

FOI Assessor
Freedom of Information Centre

[REDACTED]

From: [REDACTED]
To: [REDACTED]
Subject: F0026066
Date: 14 October 2010 09:19:52

Redacted under s40(2) of the FOI Act

Dear [REDACTED],

Thanks for the update; I agree that in the light of the information you have discovered the closure period should be extended to 2054.

[REDACTED]

Regards

[REDACTED]

This material is Out of Scope for this request

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**Document withheld in full under s31(1),
s38(1)(a) and 40(2) of the FOI Act**

From: _foirequest
Sent: Wed, 27 Oct 2010 12:58:42
To: [REDACTED]
Subject: Freedom of Information Request: Reference F0026066

Redacted under s40(1) of the FOI Act

Dear [REDACTED]

Thank you for your enquiry of 31 August 2010 and re-sent request of 3 August. requesting a review of MEPO 2/11506 - Unsolved murder of Kelso COCHRANE on 17 May 1959. See also MEPO 2/9883.

In your requests you stated that you were specifically interested in

1. Statements and information regarding an accident at work and his work life.
2. a copy of James Christian's statement
3. Correspondence and / or any minutes of meetings between Home Office officials (including the Home Secretary RA Butler) and the Metropolitan police about the case.
4. Correspondence and / or any minutes of meetings between the Director of Public Prosecutions, and the Metropolitan Police and Home Office officials about the case

As you are aware it is therefore this information we were looking for and considering for release as well as the rest of the file generally.

The Freedom of Information Act 2000 gives you two rights of access when you write to us asking for information. You have the right to know whether we hold the information that you are looking for, and you have the right to have the information given to you. These rights may only be overridden if the information you are looking for is covered by an exemption in the Act.

Unfortunately, all of the information in the file is covered by qualified exemptions and that after very careful consideration, that we do not think there is a public interest in releasing the information you have requested. Further information regarding the exemptions we have applied and the outcomes of the Public Interest Tests are given below:

Section 31 - law-enforcement - This exemption applies to all of the information because release, could put at risk certain matters, including preventing or detecting crime, arresting or prosecuting offenders and the proper administration of justice. This is because the murder remains unsolved and the information contained within this file may be used to reinvestigate this case at a later stage.

Section 31 Public interest test

Factors in favour of release

- It is recognised that there is a presumption running through the Freedom of Information Act that openness is, in itself, to be regarded as something, which is in the public interest
- The information is 50 years old
- The information may shed light on police methods of investigation crimes of this nature

Factors in favour of withholding

- This information would be used if the case was reinvestigated
- The release of this information could therefore seriously prejudice any future investigation or prosecution, thereby affecting the ability of the police to prevent or detect crime.

- It is not possible to identify information from this record that could be released into the public domain at this point without compromising future police actions
- Information that appears innocuous may have significance to an experienced investigator that is not immediately obvious to the lay reader;
- Similarly, information that appears innocuous may assume a new significance in the light of newly discovered evidence or developments in forensic or investigative techniques.

Outcome of the section 31 Public Interest Test

There remains a possibility, however remote, that this case could be reinvestigated at some point in the future. It is not in the public interest to jeopardise a prosecution for murder by releasing information that could be of later significance. Information contained in statements (including witness and family ones) may contain information which may appear innocuous but could prove vital in eventually prosecuting an offender.

Section 38 - This exemption applies to some of the information.

Factors in favour of release

- It is recognised that there is a presumption running through the Freedom of Information Act that openness is, in itself, to be regarded as something, which is in the public interest.
- A number of the issues regarding this murder are already known to the public

Factors in favour of withholding

- This file relates to a tragic crime of a disturbing nature.
- All of the information contained within this file, including statements, medical examinations and reports detailing the injuries sustained by the victim and especially information on the circumstances leading to the event, are of such a nature that mental endangerment of living relatives is rendered highly likely.

Outcome of the section 38 Public Interest Test

The National Archives and the Metropolitan Police have a duty to openness, and to the public's 'right to know'. But such a duty cannot be allowed to override their parallel duty to protect vulnerable parties from shock, harm and distress. Victims, families of victims and mentally disturbed defendants and their families need the reassurance of knowing that FoI Act access rights are not going to be allowed to be exercised to their detriment. The National Archives and the Metropolitan Police must also continue to protect public confidence that victims, victims' families and mentally disturbed defendants are allowed to be given privacy.

Some of the information in this file is also covered by the following exemption:

Section 40: Personal information: subsection (2)

This exemption has also been applied to the information you seek. This section exempts personal information relating to a third party (that is, someone other than the applicant), if its disclosure would contravene the Data Protection Act 1998. The 1998 Act prohibits the disclosure of personal information where, for example, it would be unfair, or incompatible with the purpose for which it was obtained.

Why this exemption applies

Section 40 (2) applies as the file contains unsubstantiated allegations of a criminal nature against living identifiable individuals, as well as expressions of intention towards them as individuals. Disclosure of this would be deemed to be unfair as there is no expectation that the information would be released during the lifetime of these individuals. This is an absolute exemption and as such we do not conduct a public interest test in relation to releasing this information.

I appreciate that you are interested in specific items that are contained in the record and I can confirm that some of the information you have asked for is present in the investigation files, however the nature of the file and the information

in and surrounding these elements of the file means that release of this information is not possible.

If you are dissatisfied with any aspect of our response to your request for information and/or wish to appeal against information being withheld from you please send full details within two calendar months of the date of this letter to:

The Quality Manager
Public Services Development Unit
The National Archives
Kew, Richmond
Surrey TW9 4DU

You have the right to ask the Information Commissioner (ICO) to investigate any aspect of your complaint. Please note that the ICO is likely to expect internal complaints procedures to have been exhausted before beginning his investigation.

Kind regards,



Redacted under s40(2) of the FOI Act

Freedom of Information Centre
Information Policy and Services Directorate
The National Archives

If you would like to contact us again regarding this request, please contact the helpdesk:

via e-mail: By replying to this e-mail
or (020 8876 3444)

Remember to quote your call reference number: F0026066 in any correspondence, as this will assist us in providing you with a quick response.

www.nationalarchives.gov.uk