

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 June 2024

Public Authority: Commissioner of Police of the Metropolis
Address: New Scotland Yard
Broadway
London
SW1H 0BG

Decision (including any steps ordered)

1. The complainant has requested information relating to the death of Sandra Rivett and the subsequent disappearance of Lord Lucan, from the Metropolitan Police Service (the "MPS"). Having initially relied on the neither confirm nor deny ("NCND") provisions in sections 30(3) (Investigations and proceedings) and 40(5) (Personal information) of FOIA, the MPS subsequently revised its position and relied on sections 30(1) and 40(2) of FOIA. The Commissioner's decision is that the exemption at section 30(1) is engaged and that the public interest favours maintaining the exemption.
2. The Commissioner also finds that, in providing a late response, the MPS breached sections 1(1) (General right of access) and 10(1) (Time for compliance) of FOIA. No steps are required.

Background

3. The Commission has previously considered three similar cases from this complainant on the same subject matter: FS50548394¹, FS50626924² and FS50696358³.

Request and response

4. On 20 November 2023, the complainant wrote to the MPS and requested the following information:

“My request concerns material held by the police service which relates to the murder of Ms Sandra Rivett on 7 November 1974 handle the subsequent disappearance of John Bingham, who was then the 7th Earl of Lucan.

Please note that unless stated otherwise I'm interested in information generated between 6 November 1974 and 7 November 1976.

Please redact the names and personal details of all police officers and all met employees and all interviewees and all witnesses and all informants and all members of the public known to be and or presumed to be still alive.

The 7th Earl of Lucan was pronounced dead in 2016. If you insist on rejecting his name and personal details from the documents and the information provided can you do so in a way which allows me to judge the location an [sic] extent of the reductions. Can you also provide reasons for redacting his name and personal details.

1. Does the Metropolitan police service hold crime scene photographs taken at and inside 46 Lower Belgrave Street between 6 November 1974 and 7 January 1975. This is the property where Ms Rivett was murdered. These photographs might relate to the

¹ https://ico.org.uk/media/action-weve-taken/decision-notices/2014/1040772/fs_50548394.pdf

² https://ico.org.uk/media/action-weve-taken/decision-notices/2016/1624529/fs_50626924.pdf

³ <https://ico.org.uk/media/action-weve-taken/decision-notices/2018/2173176/fs50696358.pdf>

murder of Sandra Rivett and or they might relate to the subsequent disappearance of the aforementioned John Bingham. I am interested in all crime scene photographs irrespective of what they relate to and or what they show.

2. If the answer to question one is yes can you please provide copies of all relevant crime scene photographs.

3. Does the Met hold copies of any witness statements provided by the late Veronica Bingham, also known at the time as Lady Lucan. She died in 2017. Bingham may have been interviewed about issues connected to the death of Ms Rivett and or she might have been interviewed about issues connected to the subsequent disappearance of the then Lord Lucan.

4. If the answer to question three is yes can you please provide copies of these statements.

5. Does the Met hold copies of any sound /taped interviews with the late Veronica Bingham who was known as Lady Lucan at the time. If it does can you please provide copies of and or access to these sound recordings.

6. Does the Met hold copies of any written witness statements provided by Susan Maxwell Scott, a friend of the then Lord Lucan who was believed to be the last person to see him alive in the UK. Maxwell Scott may have been interviewed about issues connected to the death of Ms Rivett and or issues connected to the subsequent disappearance of the then Lord Lucan or both.

7. If the answer to question six is yes can you please provide copies of these statements. I note that Maxwell Scott died in 2004.

8. Does the Met hold copies of any sound/taped interviews with the late Susan Maxwell Scott. If it does can you provide copies of and or access to these sound recordings.

9. Does the Met hold copies of any witness statements provided by John Bingham's late mother Kaitlin Bingham, who was also known as the Dowager Lady Lucan. Kaitlin may have been interviewed about issues connected to the death of Miss Rivett and or issues connected to the subsequent disappearance of the then Lord Lucan or both. Kaitlin died in 1985.

10. If the answer to question nine is yes can you please provide copies of these statements.

11. Does the Met hold copies of any sound or recorded interviews with the aforementioned Kaitlin. If it does can it please provide copies”.
5. On 15 March 2024, the MPS responded. It would neither confirm nor deny (“NCND”) holding the information specified at parts (1) to (11) of the request, citing sections 30(3) and 40(5) of FOIA.
6. The complainant requested an internal review on 16 March 2024. He expressed dissatisfaction with timeliness and also disagreed with the exemptions cited.
7. The MPS provided an internal review on 25 April 2024, in which it apologised for the delay in providing its previous response. It maintained its position regarding the exemptions cited.

Scope of the case

8. The complainant contacted the Commissioner on 26 April 2024 to complain about the way his request for information had been handled.
9. The complainant asked the Commissioner to consider timeliness and the application of exemptions to the request.
10. During the investigation, the MPS revised its position and cited sections 30(1) and 40(2) of FOIA, rather than the equivalent NCND provisions.
11. The request refers to disclosure of taped interviews from between 1974 and 1976. The Commissioner understands that taping interviews was not the practice at that time and interviews would have been manually written down. Therefore, the MPS has confirmed that there are no taped interviews held within the scope of the request.
12. The Commissioner will consider timeliness and the citing of exemptions to the remaining parts of the request, below.

Reasons for decision

Section 30 – Investigations and proceedings

13. Although the request itself is worded differently, all the information being requested here would fall within the description of the earlier requests referred to under Background, above.

14. The Commissioner found this class-based exemption to be engaged in those previous decision notices and, because the information being requested in this case is essentially the same, his position has not changed. He will not therefore revisit the previous arguments in engaging the exemption and instead will cover only arguments which have been added since then.

15. The MPS explained:

“The outcome of my enquiries reveal the case of Sandra Rivett and Veronica Lucan (Lady Lucan) **remains an open and unsolved murder and attempted murder case**. An unsolved murder case is never closed. The case is periodically reviewed by the Head of the Cold Case Team which was last undertaken in May this year therefore it does not constitute as a ‘historical’ record.

In this instance, the complainant is specifically requesting photographs from the crime scene, witness statements from Lady Lucan, Susan Maxwell Scott, Kaitlin Bingham and any sound tapes of Lady Lucan, Susan Maxwell Scott and Kaitlin Bingham. As pointed out by the complainant these named individuals are deceased however any held information would be part of an open and unsolved murder investigation file”.

16. It added:

“In this case, the passage of time makes no difference to the MPS’s previous decisions regarding the murder of Sandra Rivett and responses under the Act. The murder investigation remains live and unsolved with an outstanding suspect. Lord Lucan remains circulated as wanted for the murder of Sandra Rivett therefore the MPS would never release any information from an investigation file under the Act when there is an outstanding suspect for murder”.

17. And also argued:

“There are many well documented historical murder cases which have resulted in suspects being located. The below examples demonstrate that regardless of the length of time there is always a possibility to locate the suspects and solve the murders. Some of these cases were closed 50 years after the murder:-

The murder of Marise Ann Chiverella⁴ in 1964 was solved 58 years later, the murder of Sharron Prior⁵ in 1975 and the murder Maria Honzell⁶ were both solved 50 years later, the murder of David Evans⁷ in 1985, murder of Ann Pham⁸ in 1982, murder of Michelle Martinko⁹ in 1979 to name a few.

Whilst it is appreciated that there are differences between the investigations, the overriding principle is that there is a public interest in continuing to protect the integrity of unsolved investigations as it is not known when or how information may come to light to help progress or solve a case.

Underlying the media interest and public intrigue into this murder, it is vital to remember that this matter still and more importantly relates to the tragic death of a woman with an outstanding murder suspect”.

18. The Commissioner has not gone on to repeat those arguments which have previously been made by the MPS for non-disclosure of this requested information; these remain the same as those in the other cases given as examples above.
19. The Commissioner accepts that the arguments put forward by the MPS, as well as any covered in the previous decision notices, remain relevant and he considers that they all weigh heavily in favour of maintaining the exemption in this case.

⁴ <https://www.nbcnews.com/news/us-news/cold-case-murder-girl-9-1964-finally-solved-police-said-rcna15698>

⁵ <https://www.independent.co.uk/news/world/americas/canada-cold-case-murder-solved-prior-b2345992.html>

⁶ <https://www.newschannel10.com/2024/05/09/killing-14-year-old-babysitter-solved-nearly-50-years-later-police-say/>

⁷ <https://www.unilad.com/news/cold-case-murder-solved-after-40-years-thanks-to-vital-clue-20220606>

⁸ <https://allthatsinteresting.com/robert-john-lanoue>

⁹ <https://www.cbsnews.com/news/michelle-martinko-murder-victim-solve-cold-case-40-years-later/>

20. Nothing has changed since the most recent decision notice to persuade the Commissioner that section 30(1) is no longer engaged and he finds that the public interest still favours maintaining the exemption. He therefore concludes that the passage of time does not change his previous findings and the MPS was entitled to withhold the requested information.
21. In light of these findings, the Commissioner has not found it necessary to consider the application of section 40 to the same information.

Section 1 – General right of access

Section 10 - Time for compliance

22. Section 1(1) of FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them.
23. Section 10(1) of FOIA provides that a public authority should comply with section 1(1) within 20 working days. Section 1(1)(a) initially requires a public authority in receipt of a request to confirm whether it holds the requested information.
24. The complainant submitted his request on 20 November 2023 and the MPS replied on 15 March 2024. By failing to respond to the request within 20 working days of receipt, the MPS breached sections 1(1) and 10(1) of FOIA.

Right of appeal

25. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

26. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
27. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Carolyn Howes
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF