MCgowan Paul

From: MCgowan Paul
Sent: 04 August 2008 11:48
To: Ferguson Gillian
Subject: 3.Confidential:: FW 2.RestRICTED:: FW:: FW:: FW:: RE:: 3.Confidential:: Assessment of SF2 102; Downey.
Importance: High

Gillian,
please see below.

Paul

From: Graham Neal
Sent: 04 August 2008 11:41
To: MCGowan Paul
Subject: 2.RESTRICTED:: FW:: FW:: RE:: 3.CONFIDENTIAL:: FW:: RE:: 3.CONFIDENTIAL:: Assessment of SF2 102; Downey.
Importance: High

Paul
Forwarded for your information and updating of records

Neal

From: Baxter Norman
Sent: 04 August 2008 11:34
To: Williamson Derek
Cc: Sheridan Peter (ACC); Ferguson Gillian; Graham Neal
Subject: : FW:: 2.RESTRICTED:: FW:: 3.CONFIDENTIAL:: FW:: RE:: 3.CONFIDENTIAL:: Assessment of SF2 102; Downey.
Importance: High

Derek
Please see the e-mail chain below.
The discovery of new evidence in this case may provide an opportunity to recommence an investigation which may lead to a potential prosecution.

This is a matter which I feel should be discussed with HET to determine if they are prepared to conduct a full investigation. The issue of integrity highlighted in the PPS direction of 1985 would also need to be reviewed to determine what impact this would have on the rediscovered evidence.

Norman

From: Graham Neal
Sent: 29 July 2008 10:04
To: Baxter Norman
Cc: MCGowan Paul; Ferguson Gillian
Subject: 2.RESTRICTED:: FW:: 3.CONFIDENTIAL:: FW:: RE:: 3.CONFIDENTIAL:: Assessment of SF2 102; Downey.

04/08/2008
Importance: High

Sir,

Please see update report from Paul in relation to SF2 102 John Anthony Downey 19.1.1952 LKA Creeslough, ROI.

The evidence in this particular case relates to the MURDER of U/Cpl Johnston andPlt. EAMES (UDR) at Cherrymount Roundabout Enniskillen on 26.8.1972.

As indicated below, Police at HET have now discovered "new evidence" by virtue of the adhesive tape allegedly containing Fingerprints of the Suspect being discovered at Fingerprint Branch HQ in February 2008. This potentially gives an opportunity to revisit this particular Murder.

I can advise that in May 1985, the DPP directed "NO PROSECUTION" against Downey based on the fact that there were difficulties with the integrity and continuity of evidence.

In light of this development, I recommend that a SIO be appointed to review this material and liaise with the PPS as necessary. I believe that this should take place BEFORE circulation is considered.

For information

Neal A.R. Graham
OP RAPID

From: MCGOWAN Paul
Sent: 28 July 2008 14:41
To: GRAHAM Neal
Subject: 3.CONFIDENTIAL: FW: RE: 3.CONFIDENTIAL: Assessment of SF2 102; Downey.

Neal,

Further to our conversation re message attached HET have advised me that Fingerprint Branch confirmed to them in February 2008 that F Print Branch had located crucial evidence in this matter. The evidence consists of a piece of adhesive tape that was attached to a battery pack used in the murder by means of an explosion of two UDR soldiers in 1972. Fingerprints on the tape had been matched to Downey by means of "comparison with copies of prints provided by An Garda Siochana. At the time of the Op Rapid review in April 2007 the adhesive tape could not be located and any future comparison arising from the possible arrest of Downey would have been done only by means of photographs of the marks. Consequently Downey was assessed as not wanted in this matter. A letter outlining the result of the review was sent from ACC Crime Ops to the DPP in June 2007.

It has always been the case that new evidence could potentially be uncovered by HET or others investigating cases previously reviewed (under specific criteria) by Op Rapid. It is my understanding that it has been made known to concerned parties that the assessment of a person as 'not currently wanted' was always subject to the condition that new evidence could result in that person becoming liable to arrest if located in this jurisdiction. Although the letter relating to Downey did not specifically carry this caveat all interested parties appear aware that this condition applies.

HET have indicated that they will now seek to have a new alert created in respect of John Anthony Downey. Consequently he is likely to be described as wanted for murder upon creation by the HET of an appropriate alert.

This office has not examined the murder investigation conducted by HET and has no remit to do so. There could however be value in a Senior Investigating Officer appointed by D/C/Supt Baxter liaising with HET on this matter in order to clarify the grounds to overturn the decision of the Op Rapid review. Despite the understanding that new evidence would overturn an Op Rapid assessment there is potential that PSNI could be accused of abuse of process or acting in bad faith, particularly since the letter specific to Downey did not contain the appropriate caveat.

For your views / attention.

04/08/2008
From: FERGUSON Gillian  
Sent: 25 July 2008 10:30  
To: MCGOWAN Paul; GRAHAM Neal  
Subject: RE: 3.CONFIDENTIAL:: Assessment of SF2 102; Downey.

Neal/Neal,

Since the letter in relation to this individual went out some time ago stating he was not to be deemed as wanted I will need a report detailing what action should/can be taken now to present to ACC Sheridan as soon as possible.

Thanks

Gillian

From: MCGOWAN Paul  
Sent: 23 July 2008 14:43  
To: GRAHAM Neal; FERGUSON Gillian  
Subject: 3.CONFIDENTIAL:: Assessment of SF2 102; Downey.

Neal / Gillian,

In June 2007, following Op Rapid review, a letter was issued stating that Downey was not considered to be On The Run by virtue of his not having lived in Northern Ireland. The letter added that he was not currently wanted by PSNI. There was no caveat to the effect that he could become liable to arrest if further evidence came to light.

I have just spoken with HET in relation to this matter. HET expressed some concern that Downey was not considered as wanted. They informed me that they have located a crucial piece of evidence in relation to a double murder for which we submitted a review template. It is probable that they will have an SIO create a new wanted alert in respect of the murders concerned.

This situation reflects the circumstances catered for by the addition of a caveat in Op Rapid ICIS entries and the relevant letters. In this case however, presumably because Downey was not considered to be OTR, there was no caveat in the letter issued to the PPS.

Given that Downey did not have a Northern Ireland address it is unlikely that he will now seek to live in this jurisdiction. It is of course possible that he might visit here and, if a new alert is created, be subject to arrest.

For your information.

Paul  
Paul McGowan  
Ext.  
Direct dial.  
Mob.