



FREEDOM OF INFORMATION REQUEST



Request Number: F-2011-02357

Keyword: Operational Policing

Subject: Parade Organised by South Down Defenders F.B Newry

Request and Answer:

I am writing to confirm that the Police Service of Northern Ireland has now completed its search for the information.

I have today decided to disclose the information you have requested subject to the deletion of information pursuant to the provisions of Sections 38 and Section 40 of the Freedom of Information 2000 (the Act).

Question

Could I please request the following in relation to the annual parade organised by South Down Defenders F.B. Newry.

It took place in Newry City on Friday 27th August 2010.

11/8 Post Public Processions Return
11/9 Public Procession Report

Answer

Please find attached documents, of which pages numbered 1, 2 and 4 have been subject to the deletion of information pursuant to Section 38 (1) (a) and (b) Health and Safety and Section 40 (2) (a) and (b) of the Act by virtue of Section 40 (3) (a) (i) Personal Information.

Section 17 of the Freedom of Information Act 2000 requires the Police Service of Northern Ireland, when refusing to provide such information (because the information is exempt) to provide you the applicant with a notice which:

- (a) states that fact,
- (b) specifies the exemption in question and
- (c) states (if not otherwise apparent) why the exemption applies.

The exemption/s, as well as the factors the Department considered when deciding where the public interest lies, are listed below:

Section 38 (1) (a) (b) - Health and Safety
Section 40 (2) (a) (b) - Personal Information

Section 38 Health and Safety is a prejudiced based exemption which means that the PSNI must demonstrate that it is satisfied that to release the information would be likely to endanger the physical or mental health of any individual.

It is also a qualified exemption which means that the PSNI must consider the balance of the public interest in releasing the information against the public interest in withholding it.

A summary of the Harm and Public Interest considerations for Section 38 is provided below;

Harm Test - Section 38

Disclosure of the names of persons in Operational Planning roles within PSNI could put these individuals at risk and impact on their safety. The Service is currently under threat from terrorists and releasing names of individuals associated with the PSNI could assist these terrorists in targeting individuals.

Public Interest Test

Factors Favouring Release

Releasing the information would promote openness and transparency. The public would be better informed about the roles of staff within Operational Planning Departments.

Factors Favouring Retention

Releasing the names of persons who work within the PSNI into the public domain would assist terrorists and criminal elements to carry out attacks on these persons.

Decision

I have determined that the release of names of staff into the public domain would not be in the public interest. The service is currently under severe threat from terrorists and disclosure of this information has the potential to assist those criminal elements seeking to carry out attacks against police officers and police premises. The safety of individuals is of paramount importance and the PSNI will not divulge any information which could put lives at risk.

Section 40 Personal Information is a Class-based exemption, therefore it is not necessary to evidence the harm caused by disclosure. The data protection rights of a third party would be breached by disclosure, therefore Section 40(2) is an Absolute exemption and a Public Interest Test is not necessary. This is so because personal data is governed by other law (The Data Protection Act 1998).

All requests made under FOIA are applicant blind. A request must be treated as such and a public authority will always view any disclosure as into the public domain and not just to an individual.

Personal Data is regulated under the principles of the Data Protection Act 1998 and when information contains personal data about a third party it can only be released if disclosure would not breach any of the data protection principles.

Principle 1 is that personal data must only be processed lawfully and fairly.

Individuals are entitled to protection under the Data Protection Act 1998. The Service would be failing

in its lawful duty were it to breach the Data Protection Act in order to furnish a disclosure under the Freedom of Information Act 2000. The Service has a duty to protect the personal data of all individuals, both members of staff and members of the public. Therefore, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

If you have any queries regarding your request or the decision please do not hesitate to contact me on 028 9070 0164. When contacting the Freedom of Information Team, please quote the reference number listed at the beginning of this letter.

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If you are dissatisfied in any way with the handling of your request, you have the right to request a review. You should do this as soon as possible, or in any case within two months of the date of issue of this letter. In the event that you require a review to be undertaken, you can do so by writing to the Head of Freedom of Information, PSNI Headquarters, 65 Knock Road, Belfast, BT5 6LE or by emailing foi@psni.pnn.police.uk.

If following an internal review, carried out by an independent decision maker, you were to remain dissatisfied in any way with the handling of the request you may make a complaint, under Section 50 of the Freedom of Information Act, to the Information Commissioner's Office and ask that they investigate whether the PSNI has complied with the terms of the Freedom of Information Act. You can write to the Information Commissioner at Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. In most circumstances the Information Commissioner will not investigate a complaint unless an internal review procedure has been carried out, however the Commissioner has the option to investigate the matter at his discretion.

Please be advised that PSNI replies under Freedom of Information may be released into the public domain via our website @ www.psnipolice.uk

Personal details in respect of your request have, where applicable, been removed to protect confidentiality.



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NOT PROTECTIVELY MARKED
POST PUBLIC PROCESSION RETURN
FACSIMILE MESSAGE

To Police Service of Northern Ireland Parades Commission Liaison Officer
From [redacted] Events Planning, Banbridge.
Fax 028 90561643 Pages This + 1
Phone 028 90700098 Date Fri 27/08/10
Re Post Procession Return in relation to: South Down Defenders Loyalist parade - Newry.
Date, Time and Venue of Procession Friday 27th August 2010- 1920 - 2230 - Newry City

Organisation[s] involved South Down Defenders Flute band, NEWRY

Was a determination by the Commission issued? Yes [x] No []

Was there a protest meeting involved? Yes [] No [x]

Please give a brief résumé of the procession including numbers of bands and marchers, any disorder/breaches of codes of conduct by procession and/or protesters. [Please include any significant damage to property etc.]

Total of 41 bands took part in the procession including 1 band (Lower Woodstock not listed on 11/1) 22 others listed did not attend. Host band commenced on time and also finished prior to 10.30pm cut off time. All conditions imposed by the Commission were complied with and main parade was well marshalled by the Host Band. No breaches of the code were observed by Police and full co-operation was given to police during planning and event itself.

ARISING ISSUES: Residents of a house on [redacted] Newry placed two tri-colours out the window of the parade route with clear intention to inflame tensions. Police spoke with them and flags were removed. Participants in the parade did not react to provocation and no other issues developed as a result. This may be rented property. In another incident a motorist did complain to the police about not being able to get to BP garage on Belfast Rd. Very irate with officer – identity not known but believed to reside in [redacted] Alternative route available as well as alternative garage on Rathfriland Road. Persons determined to get to BP Garage. Police did facilitate this for person which was most direct route. No other complaints received.

This parade does cause congestion but plenty of media coverage was given and Band did speak to local press about event. Alternative routes are available and local residents etc.. are facilitated. Overall parade went well with minimal issues for police.

Were any arrests effected? Yes [] No [x]

What were the arrests for? (please specify)

Are any follow up arrests planned? Yes [] No [x]

If prosecutions follow an update must be submitted in due course.

Contact Name [REDACTED]
Station Banbridge

Rank Constable
Tel No [REDACTED]

s.F38
s.F40
s.F38(1)
s.F38(1)(a)
s.F38(1)(b)
s.F40(2)
s.F40(2)(a)
s.F40(2)(b)
s.F40(3)(a)
s.F40(3)(ai)



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PUBLIC PROCESSION REPORT

1	Report on (Name, Location and Date of Parade)	South Down Defenders Flute Band Parade, Newry Friday 27 August 2010
2	DCU (List affected DCUs in order parade enters)	Newry and Mourne.
3	Notified Parade Route (Set out the notified route highlighting variations specific to the parade if applicable. A map should be attached where possible.)	1900 hours - assemble at Belfast Road, Newry. Parade Route as per 11/1 : - Belfast Road, Downshire Road, Church Avenue, Sandys Street, Trevor Hill, Kildare Street, Town Hall, War Memorial, Sugar Island Trevor Hill, Downshire Road, Belfast Road.
4	Recent Parading History (A factual synopsis of sensitive parades at this venue for last 2/3 years should be given. Where there has been significant disorder or protests in a particular area this should be quoted. Human rights implications of previous police strategies should be included. Great depth of detail is not required. Reference should be made to other evidence that is available – for example, video footage.)	<p>There is a long and protracted history of the South Down Defenders Parade taking place within Newry.</p> <p>Prior to 1996, the Band paraded their traditional route without much confrontation or hostility. However, since 1996 the parade has been deemed 'contentious' and been subject, particularly in the late 1990's, to Republican protests. Since the time of the opposition, the Band has either voluntarily re-routed or had Parades Commission Determinations imposed upon it and in recent years, physical Republic/Nationalist opposition has dissipated.</p> <p>Since 2005, the Band have made attempts to engage with the Republican/Nationalist community in Newry and these contacts have been viewed positively by the Parades Commission. The Band have sought to come to a local arrangement whereby the South Down Band alone are allowed to process Trevor Hill, Kildare Street and around the War Memorial before returning to the Belfast Road.</p> <p>In 2007, for the first time since 1995, the Host Band were allowed to process the route as applied for with some restrictions applied. The main parade however was subject to a Parades Commission Determination restricting it from the City Centre area. This trend continued for 2008.</p>

2009 Parade

s.F40
s.F40(2)
s.F40(2)(a)
s.F40(2)(b)
s.F40(3)(a)
s.F40(3)(ai

52 bands and approximately 2000 bandsmen took part in the parade which passed off peacefully. The Host band paraded first along the route as applied for. Apart from running a couple of minutes behind schedule – all conditions applied by the Commission were adhered to by the Host band. Both Host parade and the Main parade (which had restrictions applied by the Commission) went very well. There were a number of minor complaints received by Police during the evening – mainly relating to noise and traffic congestion. Otherwise there was no disorder nor breaches of codes observed and the parade appeared to be well marshalled and organised. The stewards from the Host band co-operated well with Police and assisted Police in enforcing the “On Street” drinking legislation. The Main parade finished within the stipulated cut off time of 10.30pm. There were no arrests and no damage caused at the actual parade however Police did receive a complaint of a broken window at [REDACTED] Saturday 29th August 2009.

Police have no evidence at this point to back this up.

Parades in recent years have been largely peaceful and well marshalled with the organisers developing a good rapport with the police.

5	<p>Compliance with The Codes of Conduct</p> <p>(The Parades Commission has issued a Code of Conduct for parade and protest organisers, copies of which have been distributed within the Police Service of Northern Ireland. Clear breaches of the Code on previous occasions should be included here.)</p>	<p>The organisers of this parade have not breached the Codes of Conduct to date.</p>
6	<p>Public Disorder or Damage to Property which has occurred previously</p> <p>(This part must include details of factors that the Parades Commission must take into account when making their determination. Actions which infringed the law by those parading or protesting, must be included under the two subheadings.)</p> <p>(Parades – the extent to which participants gave rise to the disorder or damage to property and the likelihood that the behaviour of participants directly caused or led to the disorder. Numbers of participants and details of arrests/prosecutions should be quoted.)</p>	<p>The parade organisers have not been involved in any disorder during this parade. In recent years they have complied with any determinations issued by the Commission.</p>
	<p>(Protests – the extent to which the protesters gave rise to the disorder or damage to property and the likelihood that the behaviour of protesters directly caused or led to the disorder. Numbers of protesters and details of arrests/prosecutions should be quoted.)</p>	<p>(2) Protests</p> <p>1996 was the last year in which there was hostile action against this parade in Newry. There have been no incidents of disorder during the last number of years because of determined decisions in respect of the route used by the participants.</p>
7	<p>Community Impact Assessment</p> <p>Impacts within the community should cover the degree to which a parade or parades have already caused or might cause division between communities. Where pertinent historic reasons exist why a parade is sensitive and if relevant they should be included. Relevant tension indicators should be quoted.)</p>	<p>(1) Impacts of the procession on relationships within the community</p> <p>The protest group opposed to band parades in Newry view any attempt by participants to parade beyond the Courthouse roundabout, Downshire Road / New street as problematic.</p>
	<p>(Disruption to the life of the community would include adverse effects the procession would cause to normal everyday life.)</p>	<p>(2) Disruption to the life of the community</p> <p>The parade is along a mainly commercial part of the town but also takes in residential area as it proceeds along the Sandys Street and Church Avenue areas. The time of the parade and its size (approximately 20 minutes to pass any given point) would be such that there is an argument that minimal disruption would be caused to commercial/community life. However, the nature of the police operation that would be necessary to police the parade on the route applied for in order to ensure the keeping of public order and the attendant traffic management issues would be likely to cause some disruption to community life</p>

<p>Consider the Rights outlined below and make a judged assessment of how police strategies might affect the rights of individuals who may be affected.</p>	
<p>Police use of Force</p> <p>Article 2 of the European Convention on Human Rights (incorporated into UK Law by the Human Rights Act 1998)</p> <p>Individuals' right to life</p> <p>Everyone's right to life shall be protected by law. Deprivation of life which results from the use of force which is no more than absolutely necessary for a specified purpose does not contravene this Article.</p> <p>Article 2, in general, concerns the use of lethal or potentially lethal force.</p> <p>Article 3 of the European Convention on Human Rights (incorporated into UK law by the Human Rights Act 1998)</p> <p>No one shall be subjected to torture or to inhuman or degrading treatment or punishment.</p> <p>Article 3, in general, concerns the use of non-lethal force. It also extends to police tactics in public order situations. Any use of force by the police must be no greater than is made necessary by the person's conduct. Non-lethal force used by the police must be no greater than reasonably necessary in the particular circumstances of the case.</p>	<p>Proportionate and necessary force may have to be used to ensure the parade participants are protected. If there is a protest which is peaceful there will be no necessity to use force. Any violent protest could result in a proportionate response involving the use of force to protect the lives of both participants and police. The continued need to take account of this aspect of 'right to life' will be a consideration in police tactics.</p> <p>Service instructions will apply in respect of the use of force and specifically in respect of the deployment and the use of AEP systems.</p>
<p>Article 5 of the European Convention on Human Rights (incorporated into UK law by the Human Rights Act 1998)</p> <p>Individuals' right to liberty.</p> <p>This will cover issues such as detentions and arrests.</p> <p>It also covers the wider issues of restricting individual's freedom of movement by creating sterile zones etc.</p>	<p>Police tactics will be designed to ensure minimal disruption to vehicular and pedestrian traffic. Over a period of time vehicular and pedestrian movement will be restricted/controlled with a temporary diversion away from the parade route. This restriction would be limited to the time of the parade, in this case anticipated to last some 3 hours. In line with the existing threat/level of protest, physical measures may be deployed. Peaceful protesters will be facilitated but it may be necessary to restrict or define the areas where a protest is permitted.</p>

<p>Article 8 of the European Convention on Human Rights (incorporated into UK law by the Human Rights Act 1998)</p> <p>Individuals' rights to respect for private and family life.</p> <p>Disallows interference by a public authority of this right except as is in accordance with the law and is necessary in the interests of national security, public safety, economic well being of the country, prevention of disorder and crime, protection of health and morals or the protection of rights and freedoms of others.</p>	<p>The police operation will involve, if found necessary, the deployment of Evidence Gathering Teams equipped with video cameras etc. A full briefing prior to the parade will take place in respect of their role and they will be controlled during the operation by senior officers acting as Bronze Command. There is no intention to interfere with private and family life, albeit that the nature of the parade and any associated protests may require cordons to be put in place which will be in the interest of public safety and to prevent disorder. Any restrictions will be proportionate, lawful and necessary based on intelligence and/or past experience.</p>
<p>Article 9 of the European Convention on Human Rights (incorporated into UK law by the Human Rights Act 1998)</p> <p>Right to freedom of thought, conscience and religion.</p> <p>Gives individuals freedom to manifest religion in worship, teaching, practice and observance. Limitations prescribed by law only by interests of public safety, public order, health or morals or for protection of rights and freedoms of others.</p>	<p>The departure time of this parade is 1915 hrs which means the parade should not impact on religious worship. In any event no one will be prevented from attending their place of worship. If limitations are to be imposed upon churchgoers, they will be measured against public safety and level of crime and disorder using powers provided under the Public Order (NI) Order 1987. Disruption will be kept to an absolute minimum.</p>
<p>Article 10 of the European Convention on Human Rights (incorporated into UK Law by the Human Rights Act 1998)</p> <p>Right to freedom of expression.</p> <p>Freedom to hold opinions and to receive or impart information and ideas without interference by public authorities and regardless of frontiers. The exercise of these freedoms, since they carry duty and responsibility, may be limited as prescribed by law and necessary in a democratic society in the interests of national security, territorial integrity, public safety, prevention of disorder and crime, protection of health or morals, protection of the reputation or rights of others, preventing disclosure of confidential information or to maintain the authority and impartiality of judiciary.</p>	<p>If a protest in the form of a meeting which has been notified or otherwise is on or close to the parade route, the right to freedom of expression may be impacted upon by police.</p> <p>In this case conditions may need to be imposed, such as restricting speeches as the parade passes using powers provided under the Public Order (NI) Order 1987. In the event of any expressions by individuals which amounts to incitement or breach of the peace along the proposed parade route, these will be dealt with to prevent any disorder or more serious offence.</p>
<p>Article 11 of the European Convention on Human Rights (incorporated into UK law by the Human Rights Act 1998)</p> <p>Right to freedom of assembly and association.</p> <p>Everyone has the right to freedom of peaceful assembly and association with others.</p> <p>Can only be restricted as prescribed by law and as are necessary in a democratic society in the interests of national security, public safety, prevention of disorder or crime, protection of health or morals or for the protection of the rights or freedoms of others. This shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, the police or the administration of the State.</p>	<p>On the receipt of intelligence and/or depending on the nature of any protest which has given notification or otherwise which impinges directly on or adjacent to the parade route, it may be necessary to impose conditions. It will in this case be necessary to deploy considerable numbers of police along the parade route to prevent interference with the parade, to control crowds which may gather, protect residents rights and to regulate traffic. This will particularly be the case, should the parade be permitted beyond the Downshire Road/ New street junction. In considering these restrictions and their resultant consequences this will be proportionate, lawful and necessary based on intelligence and/or past experience.</p>

	<p>Article 14 of the European Convention on Human Rights (incorporated into UK law by the Human Rights Act 1998)</p> <p>Prohibition of discrimination.</p> <p>All the rights and freedoms in the Convention shall be enjoyed without discrimination on any grounds such as sex, race, colour, language, religion, political or other opinion, natural or social origin, association with a national minority, property, birth or other status.</p>	<p>The competing rights of residents, protesters and parade participants will be considered, recognised and balanced by effective police deployments. The level of police deployment will be proportionate and include cordons and critical junctions, sterile areas in proximity to 'flash points' which are close to the parade route.</p>
	<p>(This section should contain any other relevant information, which has been obtained through community contacts etc. A professional assessment of the value of such information must be given.)</p>	<p>(3) Human rights impact of the parade or protest (and resultant police strategies)</p> <p>There has been no notice of counter-protest or parade served to date. No representations from residents/protest groups have yet been made to police.</p>
<p>8</p>	<p>Signature</p> <p>This report should be signed by the DCU Commander or if crossing police boundaries by the senior officer responsible.</p> <p>(Name, Location and Date of Parade)</p>	