



FREEDOM OF INFORMATION REQUEST



Request Number: F-2012-03427

Keyword: Operational Policing

Subject: South Down Defenders Parade

Request and Answer:

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 26th August 2011.

11/8 Post Public Processions Return

11/9 Public Procession Report

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 pursuant to the provisions of Section 38(1)(a)(b) and Section 40(2)(a)(b) by virtue of Section 40(3)(a)(i).

Please see Forms 11/8 and 11/9 at the end of this correspondence, subject to the deletion of information as stated above.

Section 17(1) 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 exemptions, 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) by virtue of Section 40(3)(a)(i) - 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

Disclosure of officers' names in Operational Planning roles within PSNI could impact on their personal safety, putting them at risk of harm. The Service is currently under threat from terrorists and releasing names of individuals associated with the PSNI could assist terrorists in launching attacks against these 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 officers within Operational Planning Departments.

Factors Favouring Retention

Releasing the names of PSNI officers into the public domain would assist terrorists and criminal elements to carry out attacks, placing these individuals at risk of harm.

Decision

I have determined that the release of officers names 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 an absolute exemption which means there is no requirement on the Public Authority to consider whether there is a public interest in disclosure. This is so because personal data is governed by other law (The Data Protection Act 1998). A disclosure under the Freedom of Information Act is a release of information to the world in general and not just to the individual applicant.

When an application is made for information other than the data subject, disclosure of the information will often constitute a breach of the Data Protection Act and is catered for within Freedom of Information by the exemptions under Section 40(2).

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.

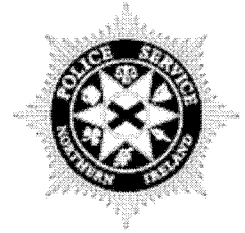
If you have any queries regarding your request or the decision please do not hesitate to contact me on 028 9070 0164. When contacting the Freedom of Information Team, please quote the reference number listed at the beginning of this letter.

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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POST PUBLIC PROCESSION RETURN

FACSIMILE MESSAGE

s.F38

To	Police Service of Northern Ireland Parades Commission Liaison Officer	s.F38(1)
From	██████████ - Events Planning, Banbridge.	s.F38(1)(a)
		s.F38(1)(b)
Fax	028 90561643	s.F40
	Pages This + 1	s.F40(2)
Phone	028 90700098	s.F40(2)(a)
	Date Fri 26/08/11	s.F40(2)(b)
Re	Post Procession Return in relation to: South Down Defenders Loyalist parade - Newry.	s.F40(3)(a)

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

Date, Time and Venue of Procession Friday 26th August 2011 - 1915 - 2230 - Newry City

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

Was a determination by the Commission issued? Yes No

Was there a protest meeting involved? Yes No

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 40 bands took part in the procession. 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. s.F38
s.F38(1)

ARISING ISSUES: Organisers notified police of an alleged incident where an item had been thrown out of an upstairs window from a house on ██████████ Newry as a band passed by. Participants in the parade did not react to provocation and no other issues developed as a result. This may be rented property. Believe it was baseball cap that was thrown. Persons spoken to by police in flat. No other complaints received. s.F38(1)(a)
s.F38(1)(b)
s.F40
s.F40(2)

Only 6 units of alcohol were seized and disposed by police at the starting point. None observed on route. s.F40(2)(a)

This parade does cause congestion for the Belfast Road area but plenty of media coverage was given and Band did speak to local press about event. Local bus to Downpatrick was facilitated by arrangement. A number of taxis were facilitated onto Windsor Hill, Trevor Hill and Sandy Street areas during parade. Traffic began flowing normally (except area outside Orange Hall from 10.09pm. Alternative routes are available and local residents etc. are facilitated. Overall parade went well with minimal issues for police. Parade finished at least 15 minutes earlier than determination and Downshire Road opened completely by 10.20pm. s.F40(2)(b)
s.F40(3)(a)
s.F40(3)(ai)

Were any arrests effected? Yes No

What were the arrests for? (please specify) _____

Are any follow up arrests planned? Yes No

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

Contact Name [REDACTED]

Rank Constable

Station Banbridge

Tel No [REDACTED]

s.F38
s.F38(1)
s.F38(1)(a)
s.F38(1)(b)
s.F40
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

<p>1</p>	<p>Report on (Name, Location and Date of Parade)</p>	<p>South Down Defenders Flute Band Parade, Newry Friday 26 August 2011</p>
<p>2</p>	<p>District (List affected Districts in order parade enters)</p>	<p>'E' District - Newry & Mourne area</p>
<p>3</p>	<p>Notified Parade Route (Set out the notified route highlighting variations specific to the parade if applicable. A map should be attached where possible.)</p>	<p>1915 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.</p>

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.)

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

There is a long and protracted history of the South Down Defenders Parade taking place within Newry.

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 retuning to the Belfast Road.

In 2007, for the first time since 1995, the **Host Band** was 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.

2009 Parade

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 and no breaches of codes observed. 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. Police did receive a complaint of a broken window at [REDACTED] at 0100hrs on Saturday 29th August 2009. The owner was of the opinion that those associated with the parade had caused the damage. Police have no evidence at this point to back this up.

2010 Parade

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] 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] area. 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 are facilitated. Overall parade went well with minimal issues for police. Parades in recent years have been largely peaceful and well marshalled with the organisers developing a good rapport with the police.

<p>5</p>	<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>
<p>6</p>	<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>There have been no protests/disorder in relation to parades in Newry over the last number of years.</p>
<p>7</p>	<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 area of Trevor Hill and Kildare Street although this is a mainly commercial area is perceived as Nationalist by some of the Nationalist community. Loyalist parades passing through this area have the potential to raise tensions within the Nationalist community.</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 policing operation if the parade enters Trevor Hill area will involve disruption to vehicular and pedestrian traffic. It is likely to involve a high policing profile to enable officers to facilitate the parade, whilst effectively managing any protest against it.</p> <p>The Parade itself does not significantly impact on the commercial heart of the town centre in that it takes place after most premises have closed. Disruption will result through Police strategies and deployments to ensure that everyone's human rights are protected.</p>

The strategic aim of the police is to minimise traffic disruption by diverting traffic away from the route or filtering it through the parade when appropriate. Pedestrian traffic in Kildare Street and Bank Parade may be restricted, when it is believed that such movement may be related to opposition to the parade.

Consider the Rights outlined below and make a judged assessment of how police strategies might affect the rights of individuals who may be affected.

Police use of Force

Article 2 of the European Convention on Human Rights (incorporated into UK Law by the Human Rights Act 1998)

Individuals' right to life

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.

Article 2, in general, concerns the use of lethal or potentially lethal force.

Article 3 of the European Convention on Human Rights (incorporated into UK law by the Human Rights Act 1998)

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

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.

3 Human Rights Impacts of the parade or protest (and resultant police strategies)

The human rights of all those affected by such events will be central to all stages of police preparations and subsequent actions

Police have a positive obligation to protect the lives of all persons, including marchers, residents, band members, protesters, supporters, bystanders, and Police on duty.

Risk to life may either be real and immediate or ought to have been reasonably predicted by Police. The Police response to a risk to life may involve the use of force, which may be lethal or non-lethal. Any lethal or potentially lethal force used must be no more than is absolutely necessary. Non-lethal force used must be reasonable in the circumstances.

Where police are considering the deployment and/or use of force it will be no more than absolutely necessary and strictly proportionate to the achievement of the legitimate aims contained in Art. 2(2).and also in accordance with Article 4.2 of the PSNI Code of Ethics. Any force will also be governed by Section 3 of the Criminal Law Act and Art.88 PACE. Any use of force will also be in accordance with Art 4 of the PSNI Code of Ethics and Service policy – Directive 07/07 (Public Order and use of Force).

Police will use whatever force is reasonably necessary and proportionate under the circumstances. This graduated response will take into account the relevant parading history and the most recent intelligence available at the planning stages. This will include any likely action by supporters, notified protesters, or any likelihood of failure to comply with the Parade Commissions determination.

Police will deploy sufficient resources to deal with any incident arising, when all available avenues have been explored. Authorisation for AEP systems will only be requested when it is deemed absolutely necessary, and this will be on the direction of the Gold or Silver Commander. All relevant decisions and actions undertaken will be recorded in an Event Policy Book.

Article 5 of the European Convention on Human Rights (incorporated into UK law by the Human Rights Act 1998)

Individuals' right to liberty.

This will cover issues such as detentions and arrests.

It also covers the wider issues of restricting individual's freedom of movement by creating sterile zones etc.

A Criminal Justice strategy is in place to ensure that breaches of the determination or of the law in general will be dealt with proportionately, consistently and in a timely manner.

For periods of time, vehicular and pedestrian movement will be restricted/controlled but this will be limited to the times of the parade.

Where possible all persons will be facilitated

Physical measures may be deployed to block/close roads.

Peaceful protesters will be facilitated but it may be necessary to restrict or define the area where a protest is permitted.

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		<p>At the lower end of the scale, Police may interfere with this right when diverting traffic away from the parade, however they will endeavour to facilitate vehicular movement were possible. Police will also stop pedestrians whose behaviour may lead to a breach of the peace.</p> <p>At the upper end of the scale all vehicular and pedestrian movement in the area of Trevor Hill, Kildare Street, Sugar Island and Bank Parade will be stopped both prior to and during the period of the parade if it is allowed into these areas.</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 deemed necessary the use of Evidence gathering teams equipped with video cameras. They will be fully briefed on their role and will be controlled by senior officers acting as <i>Bronze Commanders</i>.</p> <p>There is no intention to interfere with private and family life albeit that the nature of the parade and any associated protest may require cordons to be put into place which will be in the interests 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>The right of individuals either individually or collectively to be free to express themselves is recognised. Police will seek to facilitate peaceful protest by those individuals or groups who are opposed to parades but will balance this against the over-arching requirement to ensure that lawful activity can take place</p> <p>Restrictions of this right may be necessary in the interests of public safety or to prevent crime or disorder but they will be lawful, proportionate and set in the context of a democratic society. This right applies to both protesters and marchers.</p> <p>Police will be deployed into the area to prevent disorder and any breaches of the peace.</p> <p>Any restrictions flowing from this will be proportionate, lawful and necessary, based on intelligence and / or past experience.</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>It will be necessary to deploy Police along Downshire Road to prevent interference with the parade, to control crowds, protect residents' rights and to manage traffic. This also applies to Trevor Hill, Kildare Street and Bank Parade if the parade is allowed to proceed along the full-notified route. In the event of a notified protest on, or adjacent to, the parade route it may be necessary to impose conditions on the nature of any such protest under the Public Order (NI) Order 1987. This may include restrictions such as to the timing, location and size of the protest and would be directly related to the passage of the parade.</p> <p>Any restrictions flowing from this will be proportionate, lawful and necessary, based on intelligence and / or past experience. Persons associated with the parade who wish to make their way to the War Memorial may have their right of assembly restricted in the interests of public order or public safety.</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 marchers, protesters and residents will be considered, recognised and balanced by effective Police deployments. It is anticipated that it will not be necessary to insert police cordons to achieve this purpose.</p> <p>The level of Police deployment will be proportionate.</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>4 Miscellaneous</p> <p>Significant progress has been made around parades in Newry as a result of continued dialogue between the police and key stakeholders. Recent years have seen almost no alcohol on the streets, as a direct result of police enforcement, with the full support of the parade organisers and bands. Numerous meetings have been held between parade organisers and the police since 2007 regarding local parading issues. It is intended that these meetings will continue to enhance confidence in policing with the aim of providing a safer parading season for all concerned.</p> <p>Parades in recent years have seen no prosecutions of parade participants. Effective marshalling and communication with the police has assisted the parade to proceed along the determined route with little or no reaction to any opposition provocation.</p>
<p>8 Signature</p> <p>This report should be signed by the District Commander or if crossing police boundaries by the senior officer responsible.</p> <p>(Name, Location and Date of Parade)</p>	<p>s.F38</p> <p>s.F38(1)</p> <p>s.F38(1)(a)</p> <p>s.F38(1)(b)</p> <p>s.F40</p> <p>s.F40(2)</p> <p>s.F40(2)(a)</p> <p>s.F40(2)(b)</p> <p>s.F40(3)(a)</p> <p>s.F40(3)(ai)</p> <p>████████████████████ Sector Commander - Newry & Mourne</p>