HMIC

Inspecting policing
in the **public interest**

ADAPTING TO PROTEST– NURTURING THE BRITISH MODEL OF POLICING

Her Majesty's Chief Inspector of Constabulary

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KEY FINDINGS AND RECOMMENDATIONS

> At the majority of everyday public events, the British policing model is deployed successfully. But at a small number of more highly charged events, such as large scale protests, its core values are being tested and are in danger of being undermined.

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Key Findings and Recommendations

Adapting to Protest demonstrated that it was time for scrutiny of the policing of protest as a serious and developing part of public order policing. This report asks the question *"How best should the police as a service adapt to the modern day demands of public order policing while retaining the core values of the British model of policing?"*

The original British policing model attributed to Sir Robert Peel is designed to be adaptable to ensure the safety of the public and the preservation of the peace within a tolerant, plural society. It places a high value on tolerance and winning the consent of the public. Neither value should be underestimated. HMIC's review confirms the resilience of the original British policing model, with its approachable, impartial, accountable style of policing based on minimal force. Research in this country and overseas suggests that if nurtured, this policing model is well matched to deal with modern crowd dynamics. It is a model that is worth celebrating.

At the majority of everyday public events, this policing model is deployed successfully across the United Kingdom. But at a small number of more highly charged events, such as large scale protests, its core values are being tested and are in danger of being undermined. The police service is very much on display during these events and police conduct is subject to intense levels of exposure and scrutiny. The British model is easily eroded by premature displays of formidable public order protective uniform and equipment. Health and safety justifications cannot be allowed to overwhelm the careful exercise of police discretion and the measured escalation in the resort to the use of force.

There are likely to be more highly charged protest events in the future. In the current economic climate, budgetary imperatives will demand that forces increasingly rely on each other for mutual aid and support. It is imperative that where multiple forces are supporting each other in a public order operation, they have confidence that they can rely on consistent use of police powers and public order tactics, techniques and equipment. This is important now and will be increasingly so as we move towards the Olympics in 2012 and beyond. The public have a right to know what they can expect.

Findings

The underlying reasons for failure to deploy the British policing model successfully and consistently include:

- **An absence of clear standards on the use of force for individual officers operating in the public order policing environment:** for example, the use of shield tactics have evolved informally with the result that some forces train officers in defensive and offensive shield tactics (including the use of the edge of a shield against individuals) which are not nationally

recognised and clearly involve the use of high levels of force by officers (Chapter 5, p. 104).

- **A disconnection between individual officer safety training and public order training:** little attention is paid to the use of force by individual officers in crowd situations, for example the use of batons and distraction techniques (Chapter 6, p. 118).
- **A variation across forces in levels of understanding of the law and proper use of public order police powers:** this weakness was demonstrated in a range of command documents and operational planning across and was reflected in the actions of officers on the ground in operations such as the Drax Climate Camp in 2006; the Kingsnorth Climate Camp in 2008 and the G20 protests in 2009. (Chapter 2, pp. 53 – 65).
- **Inconsistent approaches and tactics across police forces:** for example, data collected from 22 forces of training on shield tactics indicates that 19 forces train with intermediate and round shields; 2 forces train with long shields and round shields and one force trains with all three shield types (Chapter 5, p. 100).
- **Inconsistent equipment:** there is no common standard for public order personal protection uniform across forces. There are currently two separate procurement processes for the purchase of body armour, with 21 forces supporting one process and 13 forces supporting the other. Ten forces have not opted to join either process (Chapter 5, p. 100)
- **Lack of public order command capability:** depending on reliance on individual force data or national data, between 16% and 22% of forces across England, Wales and Northern Ireland cannot provide a minimal accredited public order command structure (Chapter 5, p. 98).
- **Out of date training and guidance:** the current tactics training manual was written in 2004 and has not been revised since. ACPO has recognised the need for revision of the manual. Work started over a year ago but is currently incomplete. Knowledge transfer in today's world needs to be rapid and accessible. More practical mechanisms of disseminating accurate up-to-date knowledge need to be developed. By way of illustration, HMIC has devised a series of human rights compliant decision-making flow diagrams for protests in public and private space which can be used by commanders when planning public order operations and when reacting to events on the ground (Chapter 7, p. 137).
- **Inadequate training in the law, including human rights and police public order powers:** for example, there is a lack of clarity around the role and function of Forward Intelligence Teams (FITs). The role of FIT officer has shifted significantly over the past few years, with FITs now often deployed in personal protective equipment and accompanied by photographers to identify and obtain information about protesters. The public order manual does not explain the purpose for which this information is required. This lack of clarity creates the potential for FIT officers to act outside their lawful powers (Chapter 7, p. 128).

- **Inappropriate use of public order powers:** for example, the inappropriate use of police powers to stop and search protesters and/or to obtain the names and addresses of protesters. This was recorded as a significant issue in the Kingsnorth Climate Camp in 2008 and in other smaller scale protest events around England in the last twelve months (Chapter 7, p. 125).
- **Uncertainty about the governance and accountability mechanisms best suited to support public order policing at both the national and local levels:** the Association of Chief Police Officers (ACPO) must have transparent governance and accountability structures, particularly when it is engaged in quasi-operational roles, such as the collation and retention of personal data (Chapter 8, p. 150). There is a need to clarify the monitoring role for police authorities in relation to large scale public order operations – currently there is no guidance for them (Chapter 8, p. 159).

Positive steps to adapting to protest

HMIC has identified a number of positive signs in recent months following the publication of *Adapting to Protest* in July 2009. The police as a service has recognised and adopted the correct starting point for policing protest as the presumption in favour of facilitating peaceful protest. The Metropolitan Police Service policing operation surrounding the Climate Camp at Blackheath in August 2009 demonstrated a tangible success in integrating the findings and recommendations of *Adapting to Protest*. And committed attempts by the police to facilitate contentious protests and counter-protests in Derbyshire, Birmingham, Manchester, Gwent and Leeds over recent months indicate the vitality of the British policing model.

Recommendations

In light of the failures identified in its national review of public order policing, HMIC makes a number of recommendations to strengthen and reinforce the core values of the British policing model, including:

- The adoption of a set of fundamental principles on the use of force which run as a golden thread though *all* aspects of police business. These principles should be based on the minimum use of force and the requirement for a measured and calculated route to escalation where the use of force is a possibility (Chapter 6, p. 116).
- Codification of public order policing to ensure consistency in public order training and use of equipment, tactics and police powers (Chapter 2, p. 69).
- Public order training that is more directed, more focused and more relevant to the public order challenges facing the police. It is hard to overestimate the important of officers' understanding of the law when each individual police officer is legally accountable for the exercise of his or her police powers, especially the use of force (Chapter 5, p. 105).
- A no surprises communication philosophy with protesters, the wider public and the media. Protesters and the public should be made aware of likely police action in order to make

informed choices and decisions (Chapter 3, p. 82).

- Clarification of the legal framework for the use of overt photography by police during public order operations and the collation and retention of photographic images by police forces and other policing bodies (Chapter 7, p. 134).
- Review of the status of the Association of Chief Police Officers to ensure transparent governance and accountability structures, especially in relation to its quasi-operational role of the commissioning of intelligence and the collation and retention of data (Chapter 8, p. 151).
- Common guidelines for police authorities on monitoring public order policing to protect the public interest without compromising police operational independence (Chapter 8, p. 159).
- Finally, a body must have responsibility at the national level for sustaining and supporting the British model of policing and ensuring the evolution of public order policing within a workable legislative framework. HMIC suggests that this responsibility rests with the Home Office (Chapter 8, p. 145).

EXECUTIVE SUMMARY

> Adapting to Protest demonstrated that it was time for scrutiny of the policing of protest as a serious and developing part of public order policing. This report asks the question 'How best should the police as a service adapt to the modern day demands of public order policing while retaining the core values of the British model of policing?'

Stop the War March, G20, London 2009 – With kind permission of the Metropolitan Police Service

Executive Summary

Changing world of protest

The world is changing. And public order policing needs to change with it and evolve to meet the challenges of the modern age – expanding public expectations of the police and of the right to exercise the freedoms of expression and peaceful assembly and association; ever increasing levels of exposure and scrutiny of police action afforded by the world of instant global communication; the hard realities of the current economic climate which will demand economic efficiencies and an ability for police forces to provide mutual support to one another in an efficient and effective manner.

The world of protest has also changed. In the age of digital communication, those with causes to promote or concerns to voice now gather on a global basis to take part in mass protest action with images sent around the world to publicise the protest message. And the nature of domestic protest in Britain is also changing. In the last months, we have seen a large increase in right wing protests and left wing counter-protests throughout our cities in England and Wales. These political protests have religious and cultural overtones. Increasingly, the police are required to balance the competing rights of different communities to gather and protest in contested spaces in our cities throughout Britain.

Part 2 of HMIC's review looks at the national picture of public order policing and asks the question *'How best should the police as a service adapt to the modern day demands of public order policing whilst retaining the core values of the British model of policing?'.*

The remit of HMIC is to inspect policing in England, Wales and Northern Ireland. When we refer to the British model of policing, we are essentially discussing forces in those three areas. We have, though, considered the approach in Scotland and a number of nations internationally.

The British model of policing and alternatives

The British model of policing places a high value on tolerance and winning the consent of the public. Neither value should be underestimated. Consent is not unconditional. Police have won it by convincing people that they can be trusted to uphold the law and to protect the freedom and safety of individuals with impartiality and restraint. Our review of international practice of the policing of protest suggests that alternatives to the British police model exist. Many put more distance between the police and protest crowds. Some assign responsibilities for mediation or direction of protest events to other third parties. Whilst there are some elements of these alternative models that may be attractive in principle, the British policing model attributed to Sir Robert Peel, of an approachable, impartial, accountable style of policing based on minimal force and anchored in public consent, seems in the round to be well suited to today's dynamics.

It is an important element of the British model of policing that it is the police, rather than other third parties, who balance the rights of protestors and those of the wider community with the duty to protect people and property from the threat of harm or injury. Balancing the competing – and sometimes conflicting – rights of different communities to gather and protest in the same space poses challenges for the police. An additional complexity in modern times is distinguishing between public and private spaces. Different legal frameworks apply to protests in public space and private space. The privitisation of public space in recent years has created confusion – both for protesters, who demand the right to protest in quasi-public space, and the police, who are uncertain of their duties and the powers which they may exercise. However, reassigning this responsibility to strike the balance between competing interests from the police to another third party would constitute a significant change to the existing public order framework which operates effectively to ensure the facilitation of the vast majority of protests across England and Wales every year without incident. The existing arrangements give the police both the responsibility and the incentive to communicate with interested parties and to consider, anticipate and manage the sensitivities or concerns of all interested groups and affected communities before, during and after the protest event. Whatever balance the police strike between the competing rights and interests of different groups in society, the cornerstone is that officers are accountable to the law rather than to national or local government. This approach has obvious strengths which go far beyond public order policing.

The original British model of policing is designed to be adaptable to ensure the safety of the public and the preservation of the peace within a tolerant, plural society. This is what makes the British model attractive to so many abroad as well as at home. There is no convincing evidence that a radical change – whether of individual components or of the entire British policing model – would yield better results for the public and any proposed change would require a carefully considered assessment of the impact on British heritage, politics, law and police operations.

At smaller every day events, this policing model is deployed successfully across the United Kingdom but at more highly charged events, such as large scale protests, its core values are in danger of being undermined. The police service is very much on display during these events and police conduct is subject to intense levels of exposure and scrutiny. The British model can be easily eroded by premature displays of formidable public order protective uniform and equipment which give the perception – inadvertent or otherwise – of a hardening of the character of British policing. And the model is further eroded by poor police communication, uncontrolled instances of force and the confused and inappropriate use of police powers, such as stop and search.

What is clear, in the face of the modern spectrum of protest, the world of instant communication and public exposure and the complex burden of legislation, is that

the British model of policing needs to be nurtured so that public order policing can adapt dynamically to changing times through the right balance of officer training, tactics, confident command and accessible guidance. This can only happen with the consistent and transparent support of local authorities, professional bodies and the Home Office.

HMIC is keenly aware of the significant costs associated with policing protest events. Keeping the peace is a core police function. Whilst banning or suppressing protests may appear initially to have a cost benefit (and may be the only option where there is a clear likelihood of serious disorder or violence), the arbitrary denial of the right to protest on the basis of the notional cost of policing the event is not ultimately sustainable. However, issues of resource allocation may influence police decisions regarding the duration of protest events – consider, for example, the number of police hours lost to regular policing duties as a result of the 73 day Tamil protest earlier this year.

The use of force

The use of force by police officers raises fundamental issues for us all. Allegations of improper or excessive use of force by the police undermines the legitimacy of police action and reduces public confidence in the police. It is critical that all police officers are absolutely clear about the circumstances in which they can use force and the legal thresholds that must be met before they use any level of force. And yet it appears that the majority of public order training courses *assume* officers have a clear understanding of the law on the use of force and its application in the public order context. This is not adequate. But this is not unique to public order policing – manuals of guidance on other key areas of policing (e.g. use of firearms; police pursuits) vary in their approach to the use of force. There is no consistent core doctrine on police use of force. A central recommendation of HMIC's Part 2 review is that the police service should adopt a set of fundamental principles on the use of force which run as a golden thread through *all* aspects of policing business. This golden thread must be visible, clearly understood and sufficiently specific for those charged with the responsibility for using force to understand not only their *individual* responsibility but also the importance of the *collective* context in which force is being used. This is particularly critical in the public order policing environment.

Complexity of the law and competing interests

HMIC's review of a number of public order operations across England over the last few years (Chapter 2) demonstrates the repeated testing of boundaries of peaceful protest and the complexities of public, private and contested space. It highlights the mounting pressure on police to absorb new legislation and guidance in recent years, noting, by way of example, that 29 pieces of legislation making a total of 90 amendments, both superficial and substantive, to the Public Order Act 1986 have been introduced since the 1986 Act first came into force. The Review identifies a wide variation across forces in levels of understanding of the law, including the use of force, and highlights a number of specific concerns regarding the inappropriate use of police powers, in particular, police use of stop

and search powers and police use of overt photography during protests. It is disquieting that what appears to be a very modest amount of time is devoted in public order training to the complex legal landscape. Of particular concern is the low level of understanding of the human rights obligations of the police under the Human Rights Act 1998. It is hard to overestimate the importance for officers to understand the law when each individual police officer is legally accountable for exercising their police powers, most particularly the use of force.

HMIC does not consider that the answer to modernising and strengthening public order policing in England, Wales and Northern Ireland lies in introducing more public order legislation, as advocated recently in some quarters, to add to the already complex legislative patchwork. Rather, it is vital that police officers of all ranks properly understand the *existing* legal framework of police public order powers and duties. Large manuals of guidance are not helpful on a hot afternoon. Knowledge transfer in today's world needs to be rapid and accessible. The fact that the current public order manual of guidance will take over a year to revise before it is available to officers demonstrates the unsatisfactory nature of current arrangements. The Association of Chief Police Officers (ACPO) and the National Policing Improvement Agency (NPIA) need to develop more practical mechanisms of disseminating accurate up-to-date knowledge to those with key responsibilities in public order. By way of illustration, HMIC has developed a series of human rights compliant decision-making flow diagrams for protests in public and private space. These diagrams translate a large amount of information into an easily accessible and practical format which can be used by commanders both when planning public order operations and when dynamically reacting to events on the ground. They should ensure a human rights based approach to the policing of protest.

Inconsistencies in public order policing across forces

Central to Part 2 of HMIC's review are findings of wide-spread variation in public order operational command structures, planning methodologies, preparedness and training across the police forces of England, Wales and Northern Ireland and the inconsistencies this brings to dealing with the public. Forces use different equipment (for example, types of public order batons, shields and body armour) and tactics (for example, the use of the edge of a shield as a public order tactic). Some police forces do not use accredited public order commanders. Inconsistencies extend to the understanding and application of the use of force. Some 22,500 officers are trained in standard public order policing tactics and techniques nationally. Individual police forces vary in number of training days they allocate to standard and specialist public order training and in the nature of the training they provide on both public order tactics and the use of public order equipment.

HMIC recognises that with 44 local police forces in England, Wales and Northern Ireland, there is bound to be some variation in the way forces police public events. But it is imperative that where multiple forces are supporting each other in a public order operation, they have confidence that they can rely on

consistent use of police powers and public order tactics, techniques and equipment. This is important now and will be increasingly so as we move towards the Olympics in 2012 and beyond. The public have a right to know what they can expect.

There are essentially two routes to achieving consistency of standards and approach to public order policing. The first is through professional consensus amongst the 44 police forces – and public support for any consensus reached. This is possible but no unanimous consensus has emerged to date. The second route is codification, which would establish a common operating platform for public order policing nationally and provide the opportunity for economic efficiencies. In light of its review of the approach taken to standardise police use of firearms, HMIC considers that unless the Home Office, ACPO or the NPIA can propose another convincing mechanism, codification offers the best approach to achieving national consistency.

Public order training

HMIC considers that the police need public order training which more is directed, more focused and more relevant to the current public order challenges facing the police. Fundamentally, a clear and definitive link needs to be made between officer safety training and all levels of public order training. At present they are divorced from one another. Some officers have come to interpret notions of 'proportionality' of their response to aggression and force as 'reciprocity' – it is not – this is true everywhere but especially in dealing with crowds. Officers need to be well versed in the minimum use of force and necessity principles and the continuum of the use of force model.

Support and governance of public order policing

HMIC's review demonstrates that uncertainties exist in the support and governance of public order policing at both the national and local level. Steps must be taken to ensure proper governance arrangements and accountability structures. Chapter 8 suggests the development of a more structured monitoring role for police authorities which provides a practical and credible level of pre and post operation scrutiny for large scale public order operations which protect the public interest without intruding on police operational independence.

At the national level, it has become clear that the current status of the Association of Chief Police Officers (ACPO) is no longer sustainable if it continues to perform quasi-operational roles such as commissioning intelligence and gathering personal information about individuals. If ACPO is to be responsible for providing operational support and policy for the police service, it must have transparent governance and accountability structures. This is critical when we are dealing with national policing matters, including the collation and retention of personal data, which directly impact on the rights and liberties of our citizens.

Finally, the Home Office needs to clarify its role in relation to public order policing. It is the Home Secretary who defines the public order legislative framework and who has the responsibility to ensure the

efficiency and effectiveness of the police as a service. The active support of the Home Office is required to strengthen and reinforce the British model of policing, to provide a degree of consistency for the public in the use of public order powers and to clarify the circumstances in which public protest will not be facilitated.

Positive steps to adapting to protest

HMIC's review has identified a number of positive signs in recent months following the publication of *Adapting to Protest* in July 2009. The police as a service has recognised and adopted the correct starting point for policing protest as the presumption in favour of facilitating peaceful protest. ACPO and the Metropolitan Police Service have responded to the recommendations made by HMIC. The Metropolitan Police Service policing operation surrounding the Climate Camp at Blackheath in August 2009 indicated demonstrated a genuine commitment to integrating the findings and recommendations of Adapting to Protest. And committed attempts by the police to facilitate contentious protests and counter-protests in Derbyshire, Birmingham, Manchester, Gwent and Leeds over recent months indicate the continuing vitality of the British policing model.

Recommendations

The twelve recommendations are set out in full in Chapter 9. In summary, HMIC makes the following recommendations:

Recommendation 1: Use of Force

The Home Office, the Association of Chief Police Officers and the National Policing Improvement Agency should adopt an over-arching set of fundamental principles on the use of force to inform all areas of policing business. These principles should be based on the minimum use of force and the requirement for a measured and calculated route to escalation where the use of force is a possibility.

Public order training for commanders and public order units should fully incorporate training on the use of force which reflects these over-arching principles.

Police officers responsible for the planning and control of operations where the use of force is a possibility should so far as possible plan and control them to minimise recourse to the use of force, particularly lethal or potentially lethal force.

Recommendation 2: Codification

Public order policing should be codified under section 39A of the Police Act 1996 to ensure national consistency of standards, guidance, and training.

Recommendation 3: Public Order Capability

Forces should consider working on a regional or cluster basis to assess their public order requirements; ensure adequate numbers of qualified public order commanders and identify how they can use their resources more effectively.

Recommendation 4: Public Order Training

The Association of Chief Police Officers and the National Policing Improvement Agency should work together to ensure consistency of content and accreditation of public order training programmes across the police service.

Recommendation 5: Public Order Command training

Public order command training should be significantly enhanced to provide explicit guidance to officers on communication strategies before, during and after public order policing events and ensure police understanding and management of crowd dynamics.

Recommendation 6: Support for the British Policing Model

The active support of the Home Office is required to strengthen and sustain the British model of policing and ensure the continuing evolution of public order policing within a workable legislative framework.

Recommendation 7: Guidance on Banning Orders

The Home Office should provide guidance on the circumstances in which the Secretary of State is likely to consent to an application to ban a procession or a certain type of processions under section13 of the Public Order Act 1986.

Recommendation 8: Guidance on use of police powers to gather personal data of protesters

The Home Office should clarify:

(i) The scope and application of section 50 of the Police Reform Act 2002 by the police.

(ii) The legal framework for the use of overt photography by police during public order operations and the collation and retention of photographic images by police forces and other policing bodies.

Recommendation 9: Monitoring use of stop and search powers

Chief officers should monitor the use of stop and search powers during public order operations.

Recommendation 10: Clarification of the role of Forward Intelligence Teams

The Association of Chief Police Officers and the National Policing Improvement Agency should clarify the precise role of Forward Intelligence Teams (FITs). Public order training should include guidance on the function of FITs and the specific tactical parameters under which FITs should be deployed in public order operations.

Recommendation 11: Accountability of ACPO

The position and status of the Association of Chief Police Officers should be clearly defined with transparent governance and accountability structures, especially in relation to its quasi-operational role of the commissioning of intelligence and the collation and retention of data.

Recommendation 12: Common Guidelines for Police Authorities

The Association of Police Authorities should develop common guidelines for police authorities on monitoring public order policing to ensure the interventions of police authorities are informed and appropriate, protecting the public interest without compromising the operational independence of chief officers.

SUMMARY TABLE OF KEY FINDINGS

KEY MESSAGE	THE ISSUE	THE PROBLEM	EVIDENCE TO SUPPORT	CONCLUSION/ RECOMMENDATION
1. The challenges facing public order policing	Expectations: the new world of protest Exposure: digital communication age Economics/ efficiencies: increasing demands of mutual aid	Police are finding it hard to keep pace with the changing world and the new demands/ requirements of public order policing. Likely increase in protest and industrial disputes due to economic climate.	▪ Kingsnorth, Kent 2008: inappropriate use of police powers; mutual aid showed inconsistencies in knowledge of police powers and tactics. ▪ G20, London 2009: confusion re the starting point for policing protest = presumption in favour of peaceful protest, whether popular or not. ▪ EDL protest, Birmingham, August 2009: complaint of insufficient powers + pressure to apply for ban after Secretary of State ban in Luton.	Part 1 said it was time for the police to adapt to the changing face of protest. Part 2 looks at the national picture and identifies core areas of public order policing which need to develop and evolve. Not adequate for police to justify failure to adapt is because of insufficient powers. Answer is not more legislation but proper and consistent use of existing powers.

KEY MESSAGE	THE ISSUE	THE PROBLEM	EVIDENCE TO SUPPORT	CONCLUSION/ RECOMMENDATION
2. The British model of policing	The distinctiveness of the original British style of policing: (a) Style = independent, approachable: founded on respect for rights and accountable: policing by the people for the people (Peel) (b) Responsibility = to balance the rights of protesters and others with the duty to protect people and property from threat of harm or injury.	The dilution of the British model: (a) Style: how to preserve the British model of policing? (b) Responsibility: striking the right balance. Need to avoid any accusation that police making value judgments about acceptable or unacceptable protests. Police = arbiters, balancing rights. Other models, e.g. Northern Ireland; Scotland; Spain: police not decision-makers or arbiters. Local authority/third party.	• International review confirming the advantages of the British model of policing. • Lack of consistency of approaches to public order by forces across England and Wales, e.g. training; tactics (see 5 below). • Lack of command capability (see 5 below). • Misuse of the law: e.g. S+S; s.60 CJPOA 1994; s.50 PRA 2002; use of overt photography. • Inappropriate political pressure: instances where local political actors attempting to influence or dictate police decision-making in relation to facilitating peaceful protest. • Concerns regarding graduated approach to use of force in public order context.	Active support of Home Office required to: 1. Sustain and support the British model of policing. 2. Ensure the continuing evolution of public order policing within a workable legislative framework.

KEY MESSAGE	THE ISSUE	THE PROBLEM	EVIDENCE TO SUPPORT	CONCLUSION/ RECOMMENDATION
3. Economics	Fiscal strain: likely reduction in police budgets The costs of policing protest in the straightened economic climate.	How to strengthen/ improve national public order policing capability within existing or reducing budgets? Democracy costs: To deny peaceful protest because of costs not supportable. Neither practicable nor desirable to prevent peaceful protests. Loss of democratic freedoms too high a price to pay.	• Likely reduction in policing budgets in straightened economic climate. • Forces concerns regarding costs of policing protest, e.g. MPS; Derbyshire. • Demand for mutual support increasing if police forces and budgets reduce. • Inappropriate use of powers leading to civil claims against the police.	Reducing costs possible with increased consistency across forces: economic arguments in favour of codified national standards for public order policing. Forces should consider working on a regional or cluster basis to: (i) assess their public order requirements; (ii) ensure adequate numbers of qualified public order commanders; and (iii) identify how they can use their resources more efficiently.

KEY MESSAGE	THE ISSUE	THE PROBLEM	EVIDENCE TO SUPPORT	CONCLUSION/ RECOMMENDATION
4. Complexity and lack of understanding of the law	Police duty = uphold the law and maintain the peace. Confusion remains about core message of HMIC *Adapting to Protest* = the starting point for policing protest: presumption in favour of peaceful protest.	Hard for the police to uphold the law if they are uncertain about what it is and how it should be applied. Complexity of public order legislation: 90 amendments to POA 1986 - 61 since 2003. Numerous pieces of related legislation. Confusion about relationship between public order legislation and the Human Rights Act 1998. Complexities of protest in public v private space.	• G20: incorrect starting point re freedom of peaceful assembly. • Kingsnorth: confusion re powers to intervene re stop and search: use of s.60 CJPOA s.60 + TA s.44 • Confusion re use of overt photography and taking and retention of photographic images. • Bans: e.g. Luton. Need for guidance on when Secretary of State will consent to banning orders. • Confusion re use of breach of the peace powers and who is the source of the breach of the peace. Some positive practice: integration of starting point of facilitating peaceful protest, e.g. CC at Blackheath August 2009; CC at Nottingham power station October 2009; Gwent EDL protest October 2009; Leeds EDL protest October 2009.	1. Starting point: presumption in favour of peaceful protest in public places. 2. Dealing with complexity: (a) Making law accessible: translating law into practical guidance e.g. HMIC diagrams. (b) Monitoring use of law: Chief officers to monitor use of stop and search during public order operations (c) Clarifying scope of powers: Home Office to: (i) Clarify scope of Police Reform Act s.50. (ii) Clarify legal framework on use of overt photography and retention of images by police. (iii) Make transparent the high threshold that must be reached before Secretary of State will consent to ban a public procession.

KEY MESSAGE	THE ISSUE	THE PROBLEM	EVIDENCE TO SUPPORT	CONCLUSION/ RECOMMENDATION
5. Inconsistency of public order policing across the 44 police forces of England, Wales and Northern Ireland	Forces have different styles/approaches to public order policing and policing protest.	Type of public order policing you receive may depend more on the part of the country you are in than on the nature of the activity you are involved in. Absence of up-to-date national doctrine, standards and training curriculum. Inadequate training on use of force. No reliable picture of number of accredited public order commanders.	• Inadequate numbers of trained public order commanders: 16% - 22% of forces do not have a minimal accredited command structure of 2 ACPO + 2 IPOC trained commanders. • Untrained public order commanders commanding public order operations: e.g. West Midlands, GMP, Sussex and Bedfordshire. • Training manual out of date: 2004 • G20: different shield tactics employed • MPS training: non-standard shield tactics. • MPS requiring forces offering mutual aid to complete MPS training. 9 major regional providers of PO training: little explicit reference to use of force in training programmes.	Two routes to consistency: 1. Consensus: no agreement regarding a common approach to date. 2. Codification under s.39A of the Police Act 1996: standardisation of public order guidance and training curriculum. Not more training required but smarter training that is more focused and more relevant and ensures consistency of approach and understanding. Training on the use of force to be explicitly integrated into the public order training curriculum.

KEY MESSAGE	THE ISSUE	THE PROBLEM	EVIDENCE TO SUPPORT	CONCLUSION/ RECOMMENDATION
6. Use of force	Use of force by police raises fundamental issues for us all. Cannot successfully codify particular area of policing activity, such as public order, without reference to broader issues around the use of force. Value in making framework for police use of force transparent.	Allegations of improper/excessive use of force by the police undermine legitimacy of police action and erode public confidence. Complexities around individual use of force in a collective public order environment: Officer Safety Training transplanted into public order context without refinement.	• Guidance manuals on range of police disciplines vary in approach to use of force. • No discussion of lethal or potentially lethal force in public order context. • Inadequate reference to use of force in NPIA training materials. • Compare with firearms + Taser training: best practice. BUT some positive practice demonstrating minimum use of force model: e.g. neighbourhood style policing during CC at Blackheath; policing of CC at Nottinghamshire power station October 2009 'controlled' and 'proportionate' per protesters.	Principles on the use of force: Home Office, ACPO and NPIA to adopt a set of fundamental principles on the use of force to inform *all* areas of policing business. These principles should be based on the minimum use of force and the requirement for a measured and calculated route to escalation where the use of force is a possibility. Police officers responsible for the planning and control of operations where the use of force is a possibility must so far as possible plan and control them to minimise recourse to the use of force, in particular, potentially lethal force.

KEY MESSAGE	THE ISSUE	THE PROBLEM	EVIDENCE TO SUPPORT	CONCLUSION/ RECOMMENDATION
7. Communi-cation	Core message of HMIC *Adapting to Protest* the need for effective communication strategies – with protesters; the public + the media – before, during and after public events.	Some positive signs but some way to go. Right wing v left wing protests: police have to communicate effectively to maintain confidence of all communities.	Some positive practice, eg MPS use of Bluetooth during Tamil protests; integrated communication strategy by MPS for Climate Camp in August 2009. Other models to learn from: • Dialogue policing in Sweden • Community engagement in Northern Ireland	Development of effective and dynamic communication strategies before, during and after public events, including protests. Need for better police understanding and management of crowd dynamics.
8. Governance and accountability	The police remain the servants of the people and require the support and consent of the people. This consent depends on proper public accountability. Police are legally accountable for their actions, especially any use of force.	Lack of clarity in relation to the roles and responsibilities of the Home Office, ACPO and the NPIA at the national level. Lack of accountability of ACPO entities such as NPOIU; NETCU; NDET. Uncertainty of the role of police authorities in monitoring public order policing at the local level.	• Public accountability: complexities around developing a monitoring model for police authorities which does not intrude on operational independence of Chief Officers or seek to interfere with police responsibility to strike the right balance. • ACPO a private limited company. Expected to provide operational support and policy for the police nationally. Lack of governance and accountability arrangements. • Uncertainty about the role of the Home Office (c.f. JCHR report).	APA to provide common guidelines on monitoring public order policing operations (before, during and after public event) for police authorities. Home Office to clarify its role re: (i) sustaining the British model of policing (ii) reviewing existing public order legislative framework to ensure that it is workable Recognition of ACPO role in setting national standards. Proper governance arrangements put in place, especially in relation to quasi-operational functions, such as commissioning intelligence and retention of data.

INTRODUCTION

THE CHALLENGES FACING PUBLIC ORDER POLICING

> The original British policing model is designed to be adaptable to ensure the safety of the public and the preservation of the peace within a tolerant, plural society. This is what makes the British model attractive to so many abroad as well as at home.

Climate Camp, G20, London 2009 - With kind permission of Mike Russell

THE CHALLENGES FACING PUBLIC ORDER POLICING

The original British policing model is designed to be adaptable to ensure the safety of the public and the preservation of the peace within a tolerant, plural society. This is what makes the British model attractive to so many abroad as well as at home. This report asks the question 'How best should the police as a service adapt to the modern day demands of public order policing while retaining the core values of the British model of policing?'

The new world of protest

The world of protest has gone global. In the age of digital mass communication, those with causes to promote or concerns to voice now gather on a national, and increasingly, an international basis to take part in mass protest action with images sent around the world to publicise the protest message. During the months since HMIC published *Adapting to Protest*, we have seen a week long Climate Camp and associated protest events in London and similar events in Wales and Scotland. People are becoming more informed about their rights to freedom of expression and peaceful assembly and want to put those rights to use.

The nature of domestic protest in the United Kingdom is also changing. In the last months, we have seen a large increase in right-wing protests and left-wing counter-protests throughout our cities in England and Wales. Some of these political protests have religious and cultural overtones. In recent decades, Northern Ireland has been unique in the United Kingdom in having to confront the harsh reality of parades and protests involving thousands of people in contested spaces. Increasingly, this is occurring on the streets of our cities throughout Britain. But protest and counter protest in contested space is not a new phenomenon in Britain. We have only to consider the events leading to the introduction of the first Public Order Act of 1936 – violent clashes between fascist and anti-fascist protesters of a completely different magnitude than the protests on our streets in recent months – to see that public order legislation was designed to provide a legal framework for managing controversial and provocative protest and to provide the police with powers to preserve public order. It was in response to the organised and violent mass fascist rallies of the 1930s that the power to ban protests was first introduced. But even then, the power was hotly debated and justified only as a measure of last resort.[1]

It has been recognised for decades that freedom of expression not only applies to ideas or opinions that are popular or favourable, but also to those that offend, irritate, shock or disturb individuals or a section of the population.[2] However, it is an offence under the Public Order Act 1986 to use threatening, abusive or

[1] Public Order Bill, clause 3 (Powers for the preservation of public order on the occasion of processions). Hansard, HC Deb 23 November 1936 vol. 318 cc147-93.

[2] *Handyside v UK* (1976) 1 EHRR 737.

insulting words or behaviour,[3] or to display any threatening, abusive or insulting material which is likely[4] or intended[5] to cause harassment, alarm or distress; or which is intended to cause fear of or provoke unlawful violence;[6] or which is intended to stir up racial[7] or religious[8] hatred.[9] Balancing the competing – and sometimes conflicting – rights of different communities to gather and protest in the same space poses challenges for the police. In the straitened economic circumstances that we face today, levels of protests on our streets may increase. It becomes all the more important, then, for the police to strike the right balance between competing rights and interests.

HMIC Review of Policing Protest

Her Majesty's Inspectorate of Constabulary (HMIC) commenced its review of the policing of protest in April 2009. The review was initiated following concerns raised regarding the policing of protests in the City of London on 1 and 2 April 2009 during the G20[10] London Summit. The first part of this review, *Adapting to Protest*, was published at the beginning of July 2009. It recognised that balancing the rights of protesters and other citizens with the duty to protect people and property from the threat or harm of injury is the central dilemma in relation to the policing of protest. It defined the starting point for the policing of protest to be the presumption in favour of facilitating peaceful protest. However, this is not an absolute presumption. Article 11 of the European Convention on Human Rights (ECHR) – the right to freedom of peaceful assembly – is a qualified right. This means that the right to peaceful assembly can be restricted if the restriction is prescribed by law, has a legitimate aim (including the interests of public safety, the prevention of disorder or crime and the protection of the rights of others), and is necessary and proportionate.[11]

3 The types of conduct which may be capable of amounting to threatening, abusive or insulting words or behaviour include threats made towards innocent bystanders or individuals carrying out public service duties and the throwing of missiles by a person taking part in a demonstration or other public gathering where no injury is caused: Crown Prosecution Service (CPS) Legal Guidance, *Public Order Offences Incorporating The Charging Standard*, July 2009.

4 Public Order Act 1986, s.5.

5 Ibid, s.4A.

6 Ibid, s.4.

7 Racial hatred means hatred against a group of persons defined by reference to colour, race, nationality (including citizenship) or ethnic or national origins: Public Order Act 1986, s.17. Jews and Sikhs have been deemed by the courts to be racial groups. Muslims and Christians, for example, have been considered as religious rather than racial groups.

8 Religious hatred means hatred against a group of persons defined by reference to religious belief or lack of religious belief: Public Order Act 1986, s.29A as inserted by the Racial and Religious Hatred Act 2006. The reference to "religious belief or lack of religious belief" is a broad one, and is in line with the freedom of religion guaranteed by ECHR Article 9. It includes those religions widely recognised in this country such as Christianity, Islam, Hinduism, Judaism, Buddhism, Sikhism, Rastafarianism, Baha'ism and Jainism.

9 Public Order Act 1986, ss.18 and s.29B.

10 The Group of Twenty (G20) was established in 1999 to bring together world leaders, finance ministers and central bank governors.

11 ECHR Article 11(2), European Convention on Human Rights.

This review is the latest in a long series of reviews into public order policing. Many of the previous reviews were initiated in response to public concerns regarding the policing of particular events or police management of serious public disorder. Appendix 1 of this report analyses the findings and recommendations of a number of significant reviews into the policing of public events over the last 35 years against findings and recommendations made in *Adapting to Protest*. This exercise highlights that a number of key lessons relating to public order policing have been identified repeatedly but have yet to be fully implemented by the police.

The role of the police

There is a particular style and approach to British policing. The core values of the British model are that the police are approachable, impartial, accountable and use minimal force. An important element of the British model of public order policing is that the police, rather than local authorities or other bodies, seek to strike a balance between the rights of protesters and the wider community. A key message of this report, recognised by the police themselves,[12] is that in the exercise of police discretion and decision-making in relation to the policing of protest, the police must not take 'sides' for or against protesters, nor must they be seen to make judgments regarding the value of particular protest activity. It is the police who are charged with the responsibility of upholding the rule of law, exercising their independent professional judgment to maintain the peace and protect the rights and freedoms of all individuals within society, independent of Government and the Executive. Indeed, it is a cornerstone of modern British policing that the police do not serve the State or any other interest group – they serve the people. Indeed, it was the founding father of modern Irish and British policing, Sir Robert Peel, who is credited with articulating the principle that "the police are the public and the public are the police". As Lord Scarman recognised many years later, this means that while the police exercise independent discretion and judgment, they remain the servants of the people. As such, they cannot enforce their independent judgment without the support and consent of the people.

The distinctiveness of the British model of policing

Adapting to Protest highlighted the distinct identity of British policing and its separateness from the majority of countries in Western Europe. There has always been a strong tradition of protest in the UK and the Human Rights Act 1998 constitutionally embedded the democratic rights to freedom of expression and peaceful assembly. In Chapter 1 of this report we consider international experiences of policing protest, focusing on a number of western democracies that have experienced large scale protests in recent years and examining the legal and regulatory framework governing public order policing and the tactics used to police large-scale demonstrations. A key finding to emerge from this review is that the

[12] HMIC meeting with Police Federation representatives, 28 July 2009.

prevailing policing philosophy in a country, particularly in relation to the police level of tolerance of protest, impacts upon both the public order tactics used to police protest and the ability of individuals to exercise their rights to freedom of expression and peaceful assembly just as much as the legal or regulatory framework for policing protest. The majority of jurisdictions, including Canada, Germany, Spain and the USA, have at one time or another adopted an approach of 'strategic incapacitation' – creating obstacles to participation in demonstrations. It is only more recently that a negotiated management approach (where police tactics emphasise communication and co-operation with protesters) has begun to emerge.

The British model of policing places a high value on both tolerance and winning the consent of the public. Neither should be underestimated. Our review of international practice of the policing of protest suggests that alternatives to the British police model exist. Many put more distance between the police and protest crowds. As we consider in more detail in Chapter 1, some assign responsibilities for mediation or direction of protest events to other third parties. While there are some elements of these alternative models that may be attractive in principle, the British idea of policing generated by Sir Robert Peel, of an approachable, impartial, accountable public body anchored in public consent seems, in the round, to be well suited to today's dynamics.

It is an important element of the British model of policing that it is the police, rather than other third parties, who balance the rights of protesters and those of the wider community with the duty to protect people and property from the threat of harm or injury. Balancing the competing – and sometimes conflicting – rights of different communities to gather and protest in the same space on ocassions poses difficult challenges for the police. However, reassigning this responsibility to strike the balance between competing interests from the police to another third party would constitute a significant change to the existing public order framework which operates effectively to ensure the facilitation of the vast majority of protests across England and Wales every year without incident. The existing arrangements give the police both the responsibility and the incentive to communicate with interested parties and to consider, anticipate and manage the sensitivities or concerns of all interested groups and affected communities before and during the protest event. Whatever balance public order commanders strike between the competing rights and interests of different groups in society, the cornerstone is that chief officers are accountable to the law rather than to national or local government. This approach has obvious strengths which go far beyond public order policing.

The original British model of policing is designed to be adaptable to ensure the safety of the public and the preservation of the peace within a tolerant, plural society. This is what makes the British

model attractive to so many abroad as well as at home. There is no convincing evidence that a radical change – whether of individual components or of the entire British policing model – would yield better results for the public and any proposed change would require a carefully considered assessment of the impact on British heritage, politics, law and police operations. However, the British model can be easily eroded by premature displays of formidable public order protective uniform and equipment which give the perception – inadvertent or otherwise – of a hardening of the character of British policing. And the model is further eroded by poor police communication, uncontrolled instances of force and the confused and inappropriate use of police powers such as stop and search. What is clear, in the face of the modern spectrum of protest, the world of instant communication and public exposure and the complex burden of legislation, is that the British model of policing needs to be supported and strengthened so that public order policing can adapt dynamically to changing times through the right balance of officer training, tactics, confident command and accessible guidance. This can only happen with the consistent and transparent support of local authorities, professional bodies and the Home Office.

Police communication in the modern protest environment

Adapting to Protest highlighted the impact of the digital communication age and called on the police to recognise the impact that instant communication has on exposing the police to ever increasing levels of scrutiny. It spotlighted the need for the police to develop effective communication strategies – with protesters, the public and the media.[13] The police have found it hard, at times, to keep pace with the changing dynamics of protest and the expectations of the public. The police as a service needs to modernise its approach and be more inventive in using new technologies to engage with hard to reach or resistant communities. The police must also develop more effective media communication strategies. Like it or not, the media are the eyes and the ears of the people. They play a central role in determining public opinion and are therefore a key influencer of public confidence in policing. It is no longer an option for the police not to include the media in briefings before, during and after large scale public order events.

HMIC recognises the positive steps taken already by the Metropolitan Police Service (MPS), such as the integrated communication strategy developed for Climate Camp in August 2009 in response to the recommendations made in *Adapting to Protest*. In Chapter 3, we consider a number of alternative communication models, including the role of dialogue police in Sweden and the role of community engagement in policing contentious parades and protests in Northern Ireland. These case studies identify lessons which can be used to develop more effective policing communication strategies.

[13] *Adapting to Protest*, London HMIC, 2009

In Chapter 4, we consider the scientific literature[14] on crowd behaviour. Recent research overwhelmingly supports the view that policing styles and tactics have a profound impact on the psychology and dynamics of crowds at public events. There is compelling evidence that the most effective means of maintaining peaceful and consensual relations between the police and a dynamic crowd is through (a) a strategic approach to policing protest which is centred upon the facilitation of peaceful behaviour within a crowd; (b) a tactical policing response which increases police capability for dialogue and communication with crowd members and (c) a graded, differentiated and information led approach to police use of force.

Adapting to protest: national standards to enable local forces

In our review of the national picture of public order policing in Chapter 2, we highlight differences in approaches to the policing of protest and to the use of public order legislation across the 44 forces of England, Wales and Northern Ireland. Through a review of a number of policing operations over the last few years, we have identified inconsistencies in public order operational command structures, planning methodologies, preparedness, training and tactics. These inconsistencies extend to the understanding and application of the law and the use of force. In Chapter 5, we highlight further inconsistencies in the public order capacity of forces across England, Wales and Northern Ireland and the public order training they provide at standard, specialist and command levels.

The exposure of police tactics to public scrutiny through instant electronic communication; the assertiveness and creativity of different interest groups' use of protest to promote their messages; the burden of complex and multi-layered legislation and the stretch of police leadership and management in an era of budget constraints put a premium on the development of sound infrastructure to support the delivery of public order policing in the UK. In Chapter 2, we make the recommendation that public order policing should be codified under section 39A of the Police Act 1996 to ensure national consistency of standards, guidance, and training.

Use of force

The police have the authority to use force in specified circumstances. Sir Robert Peel recognised that "the degree of co-operation of the public that can be secured diminishes proportionately to the necessity of the use of physical force".[15] The use of force by police officers raises fundamental issues for us all. Allegations of improper or excessive use of force by the police undermines the legitimacy of police action and reduces public confidence in the police. It is critical that all police officers are absolutely clear about the circumstances in which they can use force and the legal thresholds that must be met before they use any level of force. *Adapting to Protest* highlighted inconsistencies and

[14] Covering a wide range of disciplines including social psychology, criminology and social history.

[15] From the *Nine Principles of Good Policing* attributed to Sir Robert Peel.

inadequacies regarding training and guidance on the use of force. As a central element of this review, we have investigated public order training on the use of force across England, Wales and Northern Ireland. Our findings are reported in Chapter 6, where a series of recommendations are made, including the adoption of an overarching set of principles on the use of force which informs all areas of policing business.

Complexity of the law and competing interests

HMIC's review of a number of public order operations across England over the last few years demonstrates the repeated testing of boundaries of peaceful protest and the complexities of public, private and contested space. It highlights the mounting pressure on police to absorb new legislation and guidance in recent years, noting, by way of example, that 29 pieces of legislation making a total of 90 amendments, both superficial and substantive, to the Public Order Act 1986 have been introduced since the Act first came into force. Chapter 7 identifies a wide variation across forces in levels of understanding of the law, including the use of force, and highlights a number of specific concerns regarding the inappropriate use of police powers, in particular, police use of stop and search powers and police use of overt photography during protests. It is disquieting that what appears to be a very modest amount of time is devoted in public order training to the complex legal landscape. It is hard to overestimate the importance for officers to understand the law when each individual police officer is legally accountable for exercising their police powers, most particularly the use of force.

HMIC does not believe that the answer to modernising and strengthening public order policing in England, Wales and Northern Ireland lies in introducing more public order legislation, as advocated recently in some quarters, to add to the already complex legislative patchwork. Rather, it is vital that police officers of all ranks properly understand the existing legal framework of police public order powers and duties. Large manuals of guidance are not helpful on a hot afternoon. Knowledge transfer in today's world needs to be rapid and accessible. The fact that the current public order manual of guidance will take over a year to revise before it is available to officers demonstrates the unsatisfactory nature of current arrangements. The Association of Chief Police Officers (ACPO) and the National Policing Improvement Agency (NPIA) need to develop more practical mechanisms of disseminating accurate up-to-date knowledge to those with key responsibilities in public order. By way of illustration, HMIC has developed a series of human rights compliant decision-making flow diagrams[16] for protests in public and private space. These diagrams translate a large amount of information into an easily accessible and practical format which can be used by commanders both when planning public

order operations and when dynamically reacting to events on the ground. They should ensure a human rights based approach to the policing of protest.

Governance and accountability for public order policing

The ability of the police to perform their duties is dependent on public approval and support for police action. Such approval and support is not unconditional and depends on public and legal accountability. Chapter 8 of the report considers national and governance structures and local accountability models for public order policing.

The police forces of England and Wales are governed through a tripartite structure comprising the Home Secretary, police authorities and chief constables of the 43 police forces. The position in Northern Ireland is different. Its tripartite structure comprises the Secretary of State for Northern Ireland, the Northern Ireland Policing Board and the Chief Constable of the Police Service of Northern Ireland. All three parties of each of these tripartites, as public authorities, are required to act compatibly with the rights set out in Schedule 1 of the Human Rights Act 1998. Chapter 8 discusses the roles and responsibilities of the different authorities and bodies at the national level for public order policing. It is the responsibility of the Home Secretary to ensure the efficiency and effectiveness of the police as a service and who defines the public order legislative framework.

The active support of the Home Office is required to support and sustain the style or model of British policing and to strengthen the architecture around public order policing.

The role of the Association of Chief Police Officers (ACPO) should be formally recognised but Chapter 8 highlights that proper governance arrangements need to be put in place, especially in relation to ACPO's quasi-operational functions, such as the commissioning of intelligence and the collation and retention of data.

Police authorities have a duty to monitor the performance of their respective police forces in complying with the Human Rights Act 1998.[17] Chapter 8 records a level of uncertainty regarding the proper role for police authorities in relation to public order policing operations. Drawing on innovative practice in Kent, Manchester and the West Midlands, HMIC suggests the development of a more structured monitoring role (supported by practical training and guidance) for police authorities in relation to significant public order operations to provide a practical and credible level of pre and post operation scrutiny for large scale public order operations.

Implementation of *Adapting to Protest* Recommendations

ACPO response

As we report in Chapter 5, the ACPO Public Order and Public Safety working group has been working with NPIA on the

[16] These decision-making flow-diagrams were designed by HMIC's Human Rights Advisor and agreed with Senior Counsel.

[17] Police Authorities (Particular Functions and Transitional Provisions) Order 2008 which came into force on 14 March 2008.

revision of the ACPO public order manuals of guidance and public order training since October 2008.

The ACPO Public Order and Public Safety working group has commissioned the NPIA to complete the following:[18]

(i) Revise the ACPO *Manual of Guidance for Public Order.*

(ii) Revise public order command training to include Bronze, Silver and Gold command courses.

(iii) Design a new National Police Public Order Training Curriculum.

The Head of the ACPO Public Order and Public Safety working group outlined the current status of the work and its response to the recommendations made in *Adapting to Protest* to the HMIC External Reference Group meeting at the end of August 2009 and provided a further written update on the status of the ongoing work to HMIC in October 2009.[19]

The new Manual of Guidance and training programmes are due to be finalised and delivered in Spring 2010.[20] The new National Police Public Order Training Curriculum will replace the 2004 ACPO Manual of Guidance on Public Order Standards, Tactics and Training. This, together with the new public order command courses at Bronze, Silver and Gold level and Public Order Advisor course, will set national standards of competence for officers. The Bronze command course was piloted in October 2009 and the Silver command course is due to be piloted in December 2009. Work on the Gold command course is yet to commence. The NPIA has arranged a 'Training the Trainers' course for January 2010, which will include training on human rights and public order legislation.

While the revision of the ACPO Manual of Guidance is continuing, ACPO intends to circulate interim guidance in November 2009 to police forces providing guidance on the following:[21]

- Considerations relating to protest.
- The taking and retention of images in public order.
- Considerations for the use and management of containment.
- The identification of officers.

Metropolitan Police Service response

At the beginning of September 2009, the Metropolitan Police Service (MPS) provided HMIC with a written update[22] on its implementation of the recommendations made in *Adapting to*

[18] ACPO Public Order and Public Safety Update Report to HMIC External Reference Group, August 2009.
[19] ACPO Public Order and Public Safety Update Report to HMIC, 13 October 2009.
[20] NPIA Discussion Paper prepared for ACPO Public Order and Public Safety, September 2009.
[21] ACPO Public Order and Public Safety Update Report to HMIC, 29 October 2009.
[22] MPS letter to HMCIC dated 7 September 2009.

Protest. MPS stated that the recommendations were being implemented through the following:

- Training provided to local and central planning teams.
- Changes to public order training for standard and specialist public order officers.
- Changes to the MPS advanced public order command course.
- Development of a generic communication strategy for public order events.
- Dialogue with the National Union of Journalists (NUJ) and inclusion of the role of the media in operational briefings.
- Establishment of the role of Bronze Cordon to ensure the correct deployment and management of containment should the tactic become necessary.
- Specific reference in all briefing to the need for officers to display numerals.

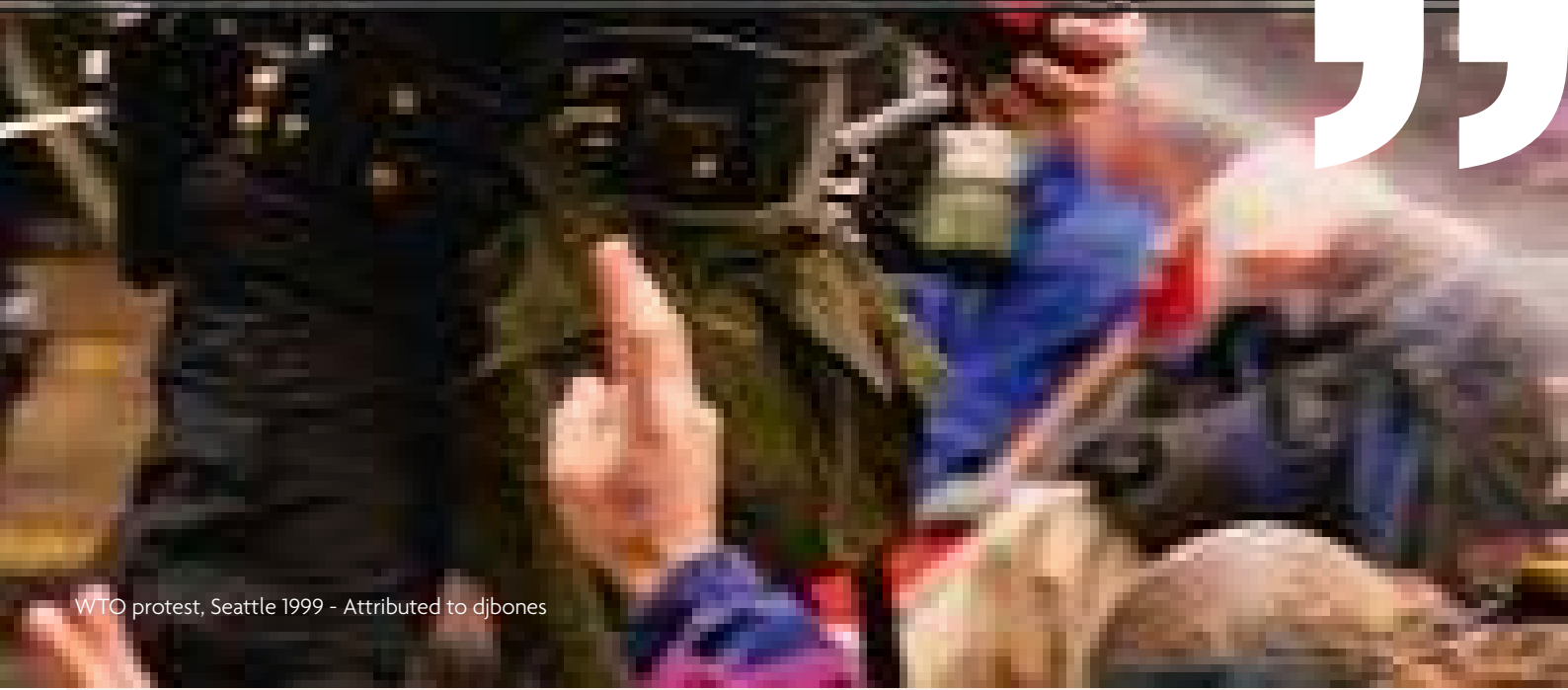
In addition, MPS has indicated that it intends to publish internal guidance on containment and guidance on the application of officer safety techniques in the public order environment.[23]

[23] MPS Public Order Branch has confirmed that these tactics are in the process of being medically assessed.

CHAPTER 1

INTERNATIONAL COMPARISONS OF POLICING PROTEST

> The review confirms the resilience of the original British policing model, with its flexible, approachable, accountable style of policing which, if strengthened, is well matched to deal with modern crowd dynamics



WTO protest, Seattle 1999 - Attributed to djbones

INTERNATIONAL COMPARISONS OF POLICING PROTEST

In the first part of this chapter, we consider international experiences of policing protest and discuss the wide range of tactics used to police protest across a number of Western European countries. In the second part of this chapter, we consider three case studies – Northern Ireland, Scotland and Spain – where an independent third party, rather than the police, is delegated to strike the balance between the rights of protesters and those of the wider community.

The distinctiveness of the British model of policing

Adapting to Protest highlighted the distinct identity of British policing and its separateness from the majority of policing models in other Western European countries. As a core component of this review, HMIC committed itself to consider international practice in relation to the policing of protest with the intention of comparing the British model of policing protest with other western democracies. In the first part of this chapter, we consider international experiences of policing protest and discuss the wide range of tactics used to police protest across a number of jurisdictions.

It is an important element of the British policing model that it is the police, rather than local authorities or other third parties, who balance the rights of protesters and those of the wider community with the duty to protect people and property from the threat or harm of injury. In the second part of this chapter, HMIC considers three case studies – Northern Ireland, Scotland and Spain – where an independent third party, rather than the police, is delegated to strike this balance.

A. INTERNATIONAL REVIEW OF THE POLICING OF PROTEST

In July 2009, HMIC commissioned the National Policing Improvement Agency (NPIA)[1] to examine the policing of protest in a number of jurisdictions that have experienced large scale global protests in recent years, including Canada, France, Germany, Spain, Sweden and the USA. The assessment considered the structure of policing; the legal and regulatory framework governing the policing of public order; tactics used to police protest and examples of large scale protests which illustrate the dominant policing style or philosophy (if any) within each jurisdiction. A summary of the findings of the research is set out below.

Legal and political framework

The report identifies four elements of a state's legal and political framework that have a direct impact on the approach to policing protest. These are:

1. Whether the state has a written constitution and, in particular, whether the individual's right to assembly is protected within this constitution.

2. Whether the police are governed from a centralised or decentralised system of government.

3. The State's level of control over police strategies and tactics.

4. The prevailing policing philosophy, and, in particular, police levels of tolerance of peaceful protest.

There is a particular style and approach to the original British model of policing. The core values of this model are independence, impartiality, discretion and accountability. It is a cornerstone of modern British policing that the police, while a part of the State, is not an instrument of the Executive. This principle was upheld in law decades ago when Lord Denning stated:

> I have no hesitation in holding that, like every constable in the land, [the Commissioner of the Metropolitan Police] should be, and is, independent of the executive.[2]

The police guard their independence to protect themselves against manipulation or politicisation and to protect the legitimacy of the British policing model.

Police tactics for policing protests

The report highlights that tactics for policing protests have changed over time as a result of changing policing philosophies and styles. The key shifts have been a movement away from the system of 'escalated force'[3] prevalent in the 1960s and 1970s towards a system of 'negotiated management'[4] in the late 1980s and 1990s, to the current system which, in the countries studied, appears to be a blend between the two.[5]

The report identifies a wide range of tactics used for policing protest over the last ten years according to type of mechanism of control. There are similarities in the types of tactics used across the six countries. No one model for policing protest has been adopted by any of the jurisdictions investigated. Rather, a range of tactics tend to be adopted in order to achieve control during protest situations.

Table 1 defines the tactics identified in the literature review according to their mechanism of control.

1 NPIA subsequently contracted Professor Trevor Bennett and Ian McKim, Senior Lecturer, both of the Centre for Criminology, University of Glamorgan, Pontypridd to complete the work.

2 *R v Police Commissioner of the Metropolis, ex parte Blackburn* [1968] 1 All ER 763.

3 Escalated force: The increasing use of force to control large crowds.

4 Negotiated management: A police tactic emphasising co-operation and communication between police and protesters. The intent is to 'de-escalate' sensitive situations and reduce the likelihood of violence.

5 See della Porta, D and Reiter, H (2006) 'The policing of global protest: the G8 at Genoa and its aftermath' pp13-41; King, M and Waddington, D (2006) 'The Policing of Transnational Protest in Canada', pp75-96; both in Della Porta, Donatella, Abby Peterson and Herbert Reiter, eds. *The Policing of Transnational Protest (Advances in Criminology)*, Aldershot, Ashgate Publishing (2006); Vitale, Alex S (2005) 'From Negotiated Management to Command and Control: How the New York Police Department Polices Protests'. *Policing and Society* 15: pp 283-304.

Table 1: Tactics defined according to their mechanism of control

Mechanism of control	Tactic subgroup	Description of tactic	Country in which used
Social[6]	Negotiated management	A tactic which emphasises co-operation and communication between police and protesters.	USA, France, Canada, Sweden
Coercive[7]	Continuum of force	A tactic whereby the level of force used is determined by the level of threat assessed.	USA, Germany, Canada, Sweden
Territorial Incapacitation[8]	Ring of steel	A high, wire fence topped with barbed wire which encircles the perimeter of the target location which the police seek to protect.	USA, France, Germany, Spain, Canada, Sweden
	No protest zone	These are areas within or near to the protest site which are determined as being off-limits to protesters and are policed accordingly.	USA, France, Germany, Spain, Canada, Sweden
Protester incapacitation[9]	Containment	Containment tactics are used to keep protesters in a confined area often for long periods of time. During this time protesters are not permitted to leave or the number that can leave at any one time is restricted.	USA, France, Germany, Spain, Canada, Sweden
	Pre-emptive arrest	Arresting apparent ringleaders or other troublesome protesters at an early point to prevent their taking further part in the protest.	USA, Spain, Canada, Sweden
	Border control	Restricting the free movement of individuals into a country.	USA, France, Germany, Spain, Canada, Sweden
Dispersal[10]	Dispersal	A tactic designed to move protesters away from areas in order to break up protester groups.	USA, France, Germany, Spain, Sweden

6 Defined as influencing the behaviour and motivation of protesters.
7 Defined as control through force.
8 Defined as marking off and defending territories.
9 Defined as restricting the movement of protesters.
10 Defined as encouraging the movement of protesters.

Mechanism of control	Tactic subgroup	Description of tactic	Country in which used
Enforcement[11]	Zero tolerance	Police respond to even minor infractions of the law.	USA, France, Germany, Canada, Sweden
	Pre-emptive arrest	Arresting apparent ringleaders or other troublesome protesters at an early point to prevent their taking further part in the protest.	USA, Spain, Canada, Sweden

Table 1 demonstrates that differing policing styles and cultures influence the choice of tactics employed to police protest. For example, the USA, Germany, and Sweden each used coercive force in the global protests evaluated, whereas France and Spain did not. Conversely, the USA, France, Canada and Sweden all used negotiated management, whereas Germany and Spain did not. The aim of the negotiated management style of protest policing is to reduce the chance of conflict through communication between protesters and police. The success of this is partially dependent on the willingness of these two groups to communicate with each other. Commentators suggest that perceptions of whether protesters are 'good' or 'bad' influences whether the police will attempt to communicate with them.[12]

A number of tactics are used in all countries. All six countries have employed some form of territorial method of control and the 'ring of steel' tactic has been used in nearly all of the global protests reviewed. Similarly, all countries have established 'no protest zones' as a means of controlling space. The tactic of strategic or territorial incapacitation involves creating obstacles to participation in protest[13] by, for example, placing a physical barrier between the protesters and the object they are protesting against. It has been suggested that a barrier can aid the police by giving them a psychological advantage over the protesters whose aim becomes to breach the barrier rather than challenge those on the other side of it.[14] Other commentators argue that such a barrier may create or exacerbate tension between police and protesters.[15]

[11] Defined as applying routine police enforcement tactics.

[12] Della Porta, Donatella, Abby Peterson and Herbert Reiter, eds. *The Policing of Transnational Protest (Advances in Criminology), Aldershot, Ashgate Publishing,* 2006.

[13] Noakes, J and P F Gillham, (2007), 'Police and Protester Innovation Since Seattle', *Mobilisation: The International Quarterly*, 12:4: pp335-340; Noakes, J A, B V Klocke, and P F Gillham, (2005), 'Whose Streets? Police and Protester Struggles over Space in Washington, DC, 29-30 September 2001', *Policing and Society*, 15:3: pp235-254.

[14] King, M and D Waddington, (2005), 'Flashpoints Revisited: A Critical Application to the Policing of Anti-Globalisation Protest', *Policing and Society*, 15:3: pp255-282.

[15] Noakes, JA, BV Klocke and PF Gillham, (2005), 'Whose Streets? Police and Protester Struggles over Space in Washington, DC, 29-30 September 2001', *Policing and Society*, 15:3: pp235-254.

Evaluation

A key finding to emerge from the comparative international review is that the prevailing policing philosophy in a country, and, in particular, police levels of tolerance of protest, impacts upon both the public order tactics used to police protest and the ability of individuals to exercise their rights to freedom of expression and peaceful assembly just as much as the legal or regulatory framework for policing protest. The majority of jurisdictions, including Canada, Germany, Spain and the USA, have at one time or another adopted an approach of 'strategic incapacitation' – creating obstacles to participation in demonstrations. It is only since the late 1980s that a negotiated management approach, where police tactics emphasise communication and co-operation with protesters, has begun to emerge – but with varying degrees of commitment. Sweden has to date most fully developed the model of negotiated management to policing protest (evidenced in the planning and delivery of policing operations) through the introduction of dialogue police. We discuss the Swedish model in more detail in Chapter 4.

On one level, the British policing tactic of containment of protesters can be defined as 'strategic incapacitation'. However, when exercised lawfully,[16] the decision to 'incapacitate' protesters through the tactic of containment is taken in response to disorderly or violent behaviour of members of the protest crowd, rather than in response to a particular protest issue or political position. Concerns around the legitimacy of the tactic arise where containment appears to become a standard policing response or is implemented to pre-emptively incapacitate protesters. The tactic then moves into the realm of arbitrariness and unlawfulness.

The international review also highlights the very different nature of international (or global) protests and domestic protests. Where thousands of protesters converge from around the world on a particular location that is hosting, for example, a G20 or a G8 meeting, the level of risk increases substantially, as does the possibility of significant levels of disorder. It is difficult in such circumstances to assess the intent of the thousands of protesters and it becomes more likely that restrictions or conditions may be imposed on protesters. The policing response to mass global protest in the majority of jurisdictions evaluated tended to be much more militarised in character.

It is important to acknowledge the significant threats which global protest may pose to a country's national security, economic interests and to critical national infrastructure. In addition, significant obligations of protection are placed on the police in relation to visiting Heads of States and other high profile individuals. All these are legitimate concerns which cannot be ignored and may justify the police in imposing restrictions or constraints on individuals taking part in mass global protests. But this is an

[16] In accordance with the criteria set out in *Austin and Another v Commissioner of Police of the Metropolis* [2009] UKHL 5.

inherent part of the balance that must be struck between the rights of individuals to exercise the freedoms of expression and assembly and the rights of the wider community.

The comparative review of international practice of the policing of protest suggests that none of the jurisdictions has fully resolved the challenges faced by large scale protest. The review confirms the resilience of the original British policing model, with its flexible, approachable, accountable style of policing which, if strengthened and supported, is well matched to deal with modern crowd dynamics. In a very recent case,[17] the European Court of Human Rights has considered the policing of protest in the context of an international political event, in this case, the G8 Summit held in Genoa in 2001. The Court stated:

> … when a State agrees to host an international event entailing a very high level of risk, it must take the appropriate security measures and deploy every effort to ensure that order is maintained. Hence, it is incumbent upon it to prevent disturbances which could lead to violent incidents. If such incidents should nevertheless occur, the authorities must exercise care in responding to the violence, in order to minimise the risk of lethal force being used. At the same time, the State has a duty to ensure that the demonstrations organised in connection with the event pass off smoothly, while safeguarding, inter alia, the rights guaranteed by Articles 10 and 11 of the Convention.[18]

The Court's judgment recognises the complexity of policing international events such as the G8 or the G20, which require the police to put in place significant security measures at the same time as safeguarding the fundamental freedoms of expression and peaceful assembly. The ruling emphasises the importance of careful operational planning and preparation by the police to minimise the need to resort to the use of force, particularly lethal or potentially lethal force, and to balance fairly the competing demands and interests of a wide number of different groups.

B. INDEPENDENT THIRD PARTY ARBITERS

As part of this review, HMIC has considered the role, if any, for third party arbiters or mediators in the policing of protest. In the second part of this chapter, we discuss three case studies – Northern Ireland, Scotland and Spain – where it is an independent third party, rather than the police, which is delegated to strike the balance between the competing rights of protesters and the wider community.

[17] *Giuliani and Gaggio v Italy*, App. No. 23458/02 (25 August 2009).

[18] Ibid, para.231.

Case Study 1: Northern Ireland – The Parades Commission

The Public Processions (Northern Ireland) Act 1998[19] established the Parades Commission and the legal framework for the regulation of public processions in Northern Ireland. The Act has subsequently been amended[20] to extend and clarify the jurisdiction of the Parades Commission. Since 2005, the Parades Commission has had the power to issue determinations in respect of any proposed public procession[21] or protest meeting[22] held in Northern Ireland, imposing on the persons organising, taking part in or supporting public processions or protests such conditions as the Commission considers necessary.[23] There is no express limit on the power of the Commission to impose conditions, but it is clear that the Commission can include conditions on (i) public processions in relation to the route of the procession and prohibiting it from entering any place[24] and (ii) protest meetings in relation to the place of the meeting, its maximum duration and the maximum number of participants.[25] Anyone who knowingly fails to comply with any such conditions imposed by the Commission commits a criminal offence.[26] The Commission has a power to amend or revoke any determination which it issues.[27]

It is the duty of the Parades Commission to have regard to its guidelines when considering whether to issue or review a determination relating to a public procession or a protest meeting.[28] The guidelines require the Commission to have regard to:

(i) any public disorder or damage to property which may result from the procession or protest meeting;

(ii) any disruption to the life of the community which the procession or protest may cause;

(iii) any impact which the procession or protest may have on relationships within the community;

19 Which came into force on 16 February 1998.

20 By the Public Processions (Amendment) (Northern Ireland) Order 2005.

21 For the purposes of the Act, a public procession means "a procession in a public place, whether or not involving the use of vehicles or other conveyances: Public Processions (NI) Act 1998, s.17(1).

22 A protest meeting means an open-air public meeting which is held at a place which is on or in the vicinity of the route of a public procession at or about the same time as the procession is being held and the purpose (or one of the purposes) of the protest is to demonstrate opposition to the holding of that procession: Public Processions (NI) Act 1998, s. 17(1).

23 Public Processions (NI) Act 1998, s.8(1) (public processions) and s.9A(1) (protest meetings).

24 Ibid, s.8(2).

25 Ibid, s.9A(2).

26 Ibid, s.8(7) (public processions) and s.9A(7) (protest meetings).

27 Ibid, s.8(4).

28 Ibid, s.8(5) (public processions) and s.9A(5) (protest meetings).

(iv) any failure to comply with the Code of Conduct and the desirability of allowing a procession customarily held along a particular route to be held along that route.[29]

The requirement to have regard to these matters is intended to ensure that decisions of the Parades Commission comply with the requirements of the Human Rights Act 1998. Furthermore, the Parades Commission is itself a public authority and is therefore under a duty to act compatibly with the European Convention on Human Rights. It is the Parades Commission, therefore, that has primary responsibility for ensuring that an appropriate human rights balance is achieved between those wishing to parade, those wishing to protest and those living and working in the vicinity of those parades and/or protests, by issuing determinations as and when it considers appropriate. In respect of those determinations, no criticism can properly be levelled at the police for carrying them into effect, even if individuals or groups consider the decision in question to be wrong. The responsibility of the police is to enforce the determinations made by the Parades Commission and to take appropriate operational decisions to that end within the framework of the applicable law, including the Human Rights Act 1998. In recent years, some difficulties have arisen where the Parades Commission has taken the decision not to issue a determination in relation to a public procession or protest meeting and disagreements have arisen subsequently regarding the exact nature of the procession or protest meeting.

Case Study 2: Scotland – local authorities as arbiters

In Scotland, the Police, Public Order and Criminal Justice (Scotland) Act 2006 (the 2006 Act) requires notice of a proposal to hold a public procession to be given to the local authority at least 28 days before the date of the proposed procession. The 2006 Act gives powers to the local authority to prohibit or impose conditions on a procession.[30] It also sets out the considerations which local authorities must take into account when considering whether to prohibit a procession or place conditions upon it. These are:[31]

(a) the likely effect of the holding of the procession on –

- (i) public safety;
- (ii) public order;
- (iii) damage to property;
- (iv) disruption of the life of the community.

[29] Ibid, s.8(6) (public processions) and s.9A(6) (protest meetings).

[30] Police, Public Order and Criminal Justice (Scotland) Act 2006, s.71(3), amending s.63 of the Civic Government (Scotland) Act 1982.

[31] Ibid.

(b) the extent to which the containment of risks arising from the procession would (whether by itself or in combination with any other circumstances) place an excessive burden on the police;

(c) where the person proposing to hold the procession has previously held one in the area of the local authority, or the persons likely to take part in the procession (or some of them) are the same as those who took part in a procession previously held in that area –

  (i) whether the previous procession was held in breach of a prohibition or a condition imposed by the local authority;

  (ii) whether any guidance or code of conduct issued by the authority as to the holding of the previous procession or the holding of processions generally was followed;

  (iii) the effect that the previous procession had on public safety, public order, damage to property or disruption of the life of the community; and

  (iv) whether risks arising in connection with the previous procession placed an excessive burden on the police.

The local authority is also required under the 2006 Act to maintain, and make available to the public, a list containing information about processions which have been held in their area and those which have been prohibited under the 2006 Act.

Case Study 3: Spain – local authorities as mediators

Further to positive comment made by the Joint Committee on Human Rights on the Spanish model of resolving disputes in relation to public processions,[32] HMIC has also considered the Spanish legal framework for public processions.[33] The Spanish approach reflects elements of both the Scottish and the Northern Irish models. Those proposing to hold a public procession are required to notify the local authority which may decide to prohibit or impose conditions on the public procession if there is a risk of disorder. This reflects the Scottish model.

Before it issues a decision, the local authority holds a meeting between the organisers of the procession and the police. This introduces the organisers to the police 'negotiator' who will be on the ground on the day of the event. The local authority acts as an independent mediator, ensuring that the intentions and wishes of the organisers are communicated to the police and that the organisers are warned of possible police action if those taking part in the event become disorderly or violent. This reflects the Northern Ireland Parades Commission model. On the day of the procession itself, the police negotiator maintains contact with the organisers before, during and after the procession.

[32] Joint Committee on Human Rights, *Demonstrating Respect for Rights?* Seventh Report of Session 2008-09, HL Paper 47-1, 23 March 2009, Introduction, p.8, para.10.

[33] HMIC is grateful to the European Police College at Bramshill for their assistance.

Comment

The case studies are worth referencing as alternative frameworks for striking the balance between competing rights and interests in relation to protest. These models can be useful where processions or assemblies are contentious or controversial, or where there has been a breakdown in trust between the police and local communities. However, they add further complexity to the machinery of public order policing. The traditional approach in England and Wales has been that the police act as the primary arbiter in relation to decisions around protests. This is on the grounds first, that they will take impartial decisions because they owe no allegiance to any particular organisation or interest and second, that they are accountable to the law for the exercise of their discretion.

Reassigning responsibility from the police to a third party arbiter would constitute a significant change to the existing public order framework which operates effectively to ensure the facilitation of the vast majority of protests (public assemblies and public processions) across England and Wales every year. The existing arrangements give the police both the responsibility and the incentive to communicate with interested parties and to consider, anticipate and manage the sensitivities or concerns of all interested groups and affected communities prior to the protest event itself. Our national review of the policing of protest discussed in the next chapter provides some positive examples of the police skillfully demonstrating their ability to communicate effectively and meet their responsibility of acting as primary arbiter.[34]

[34] See for example the MPS operation relating to Climate Camp at Blackheath in August 2009.

CHAPTER 2

NATIONAL STANDARDS FOR PUBLIC ORDER POLICING

> The maintenance of public order and ensuring the safety of the public at large events is a high profile policing activity. HMIC's review demonstrates that forces use different equipment and tactics, apply different police powers and operate under different command structures. Steps must be taken to rectify this lack of consistency.

Drax Power Station, North Yorkshire 2006 – Attributed to Akuppa

NATIONAL STANDARDS FOR PUBLIC ORDER POLICING

In this chapter, we investigate the national picture of public order policing through a review of a number of policing operations related to protests over the last two years. Our review highlights wide variations in the use of public order legislation and police powers across police forces, as well as differences in operational command structures, planning methodologies, training and tactics. HMIC considers that steps must be taken immediately to rectify this lack of consistency across forces.

The national picture of policing protest

Adapting to Protest demonstrated that it was time for scrutiny of the policing of protest, as a serious and developing part of public order policing. It identified that the police need to adapt to the changing nature and spectrum of protest activity, that they need to understand better their public order powers and the legal framework within which they operate, including their obligations under the Human Rights Act 1998, and that public order policing operations need to be more carefully planned and implemented to ensure an appropriate and proportionate policing response.

In this chapter, we investigate the national picture of public order policing through a review of a number of policing operations related to protests in England and Wales over the last two years. Each of the operations selected raised a particular challenge or issue relating to the use of public order legislation or the use of particular police powers. The following policing operations are considered:

(a) Camp for Climate Action, Drax, August–September 2006

(b) Camp for Climate Action, Kingsnorth, July–August 2008

(c) Tamil protests, London, April–June 2009

(d) British National Party (BNP) Rally, Derbyshire, August 2009

(e) Camp for Climate Action, Blackheath, London, August–September 2009

(f) Ban of English Defence League[1] (EDL) marches in and around Luton, August 2009

(g) English Defence League protest in Birmingham, September 2009.

Our review of these operations highlighted differences in approaches to public order policing and the use of public order legislation and police powers across police forces, including variations in operational command structures, planning methodologies, training and tactics. Before we turn to discuss the individual operations and identify key themes emerging from the national

[1] The English Defence League emerged last March when a group of Muslims protested as the Royal Anglian Regiment paraded through Luton on its return from Afghanistan. A counter-demonstration under the name of United People of Luton led to arrests. Local football supporters subsequently formed English Defence League "divisions" run by football supporters in Luton, north London, Bristol, Portsmouth and Southampton, Derby, Cardiff and the West Midlands.

review, we first consider the important issue of the cost of policing protest.

Costs of policing protest

A theme which has emerged as part of HMIC's national review of public order policing is concern around the significant costs of policing these events. The assessed costs[2] of the public order operations considered by HMIC are set out in Table 2 below. Costs of policing operations are standardly broken down into two categories – additional costs and opportunity costs. Additional costs comprise costs incurred in addition to normal policing costs, for example through overtime, transport costs, rental or purchase of special equipment. Opportunity costs reflect the cost of deploying police officers at a public order event or operation who would otherwise have been deployed on regular policing duties.

Table 2: Assessed costs of public order operations reviewed by HMIC

Event/Operation	Additional Costs	Opportunity Costs
Drax Climate Camp 2006	£4 million – separated costs not available	
Kingsnorth Climate Camp 2008	£3.9 million	£1.4 million
Tamil Protests Central London, April-June 2009	£6.1 million	£4.4 million
British National Party Rally Derbyshire, August 2009	£112,791	£322,537
English Defence League March Birmingham, September 2009	£84,000	Not able to provide
Climate Camp Blackheath, September 2009	£1.1 million	£1.6 million

In the difficult economic climate, HMIC recognises the legitimacy of concerns voiced by police forces and police authorities regarding the costs associated with policing protest and the implications of removing officers from daily policing duties. However, public events are a part of our national life – consider, for example, national and international political, sporting and music events, such as the State opening of Parliament, the Live8 concerts in 2006 and the forthcoming Olympics in 2012. Keeping the peace is a core police function. There is an inevitable cost to policing all public events, including protests.

While banning or suppressing protests may appear initially to have a cost benefit (and may be the only option where there is a clear likelihood of serious disorder or violence), the imposition of a protest ban requires careful consideration, given that:

(i) it may be ignored or incite such a negative response that large numbers of police resources are necessary to enforce it;

[2] Costs assessed by relevant police force and provided to HMIC, October 2009.

(ii) it may have profound repercussions in other areas of the country.

The arbitrary denial of the right to protest on the basis of the notional cost of policing the event is ultimately unsustainable. However, issues of resource allocation may legitimately influence police decisions regarding the duration of protest events – consider, for example, the number of police hours lost to regular policing duties as a result of the 73-day Tamil protest earlier this year.

HMIC considers that if the police as a service develops a consistent approach to public order policing, in terms of understanding and application of the law, common command structures, use of tactics and techniques, this common operating platform provides the opportunity for economic efficiencies as mutual support is delivered more effectively on both a regional and national basis.

A. NATIONAL REVIEW OF POLICING PROTEST

1. Camp for Climate Action, Drax, August–September 2006

From Saturday 26 August to Monday 4 September 2006, a Camp for Climate Action (Climate Camp) was held near the Drax power station. Drax power station was targeted as it produces the largest carbon emissions in the UK and is the largest coal burning power station in Europe.[3] The owners of the power station were granted an injunction banning unauthorised persons from entering the site.[4] North Yorkshire Police, assisted by a number of other forces, policed the Climate Camp.

On 31 August 2006, protesters converged on Drax power station. The event had been billed as the 'Battle of Drax', but turned out to be more of a festival, which included a children's march.[5] 38 protesters were arrested for a number of offences, including possession of bolt cutters and poles which police suspected would be used to cause property damage.

The Central Police Training and Development Authority (Centrex)[6] conducted a structured debrief[7] of the

3 *Power station protesters arrested*: http://news.bbc.co.uk/1/hi/england/north_yorkshire/5300560.stm.

4 Ibid.

5 *In the shadow of Drax, not so much a fight as a festival*: http://www.guardian.co.uk/environment/2006/sep/01/energy.activists.

6 The Central Police Training and Development Authority (Centrex) was created as a non departmental public body on 1 April 2002 under Part Four of the Criminal Justice and Police Act 2001. Centrex was abolished on 1 April 2007 and replaced by the National Policing Improvement Agency (NPIA) which was established under s.1 of the Police and Justice Act 2006.

7 The debrief process can take various forms: (i) internal operational debriefing of officers involved in the operation; (ii) peer-review: the use of specialists to review policies and command decision-making; and (iii) external review: conducted by an independent specialist, such as a retired senior officer or judge, or an independent body such as HMIC, who is tasked to examine the circumstances of the event, the planning, command and control processes and command decision-making and make key findings.

policing operation for North Yorkshire Police in October 2006. The debrief identified a number of positive operational measures[8] taken by the police, including:

- A strategy of treating the protesters as a community.
- The deployment of neighbourhood police teams within the Camp which provided an effective means of engagement with the Camp community.
- An effective public relations and media strategy which enabled the police to keep the public informed.
- Effective consultation processes with outside agencies and stakeholders, including Drax management.

However, the Centrex debrief also identified a number of critical areas where development or improvement were required.[9] These included the need for:

- A clearly defined Gold strategy setting out core objectives to inform the Silver tactical plan.
- A more effective command structure with clearly defined roles and responsibilities.
- Adequately trained officers, in particular, the operational planning team.
- Better recording of policy and decision-making.
- A full and comprehensive operational order to ensure that officers understand the operation and its complexities and challenges.

2. Kingsnorth Climate Camp, July-August 2008

In April 2008, it became known that a Camp for Climate Change would take place in Kent during late July and August. Between 28 July and 12 August 2008, a number of protest groups collectively known as Camp for Climate Change directed their protest activities towards Kingsnorth Power Station on the Hoo Peninsula in Kent. The selection of this venue was triggered by the intention of E.ON (a power generation company) to construct a coal-fired power station on this site.

On 30 July 2008, members of Climate Camp entered private land (owned by the Ministry of Defence but occupied by a private tenant farmer) in Dux Court Road near High Halstow (the Site) and set up camp. The Kingsnorth Climate Camp took place from 3-9 August 2008. The stated aim of the Camp was to shut down the Kingsnorth power station. At its height, the number of protesters was estimated at 1,800 to 2,000, camping in various temporary structures on the Site. The majority of protesters departed on 11 August 2008. The camp remained on the Site until Sunday 17 August when the final structures of the camp were dismantled and remaining protesters were moved on.

[8] Centrex Structured Debrief Report on the Camp for Climate Action Protests at Drax Power Station, 19 October 2006 (Debrief Report), p.8.

[9] Ibid., pp.6-7.

The Kent police operation was "designed primarily to ensure public safety and prevent unlawful activity."[10] The six strategic objectives set by Gold command included the protection of life and the prevention of crime and disorder. Also included was the "facilitation of lawful protest". We reported in *Adapting to Protest* that it had become clear that a number of police forces in England and Wales approach peaceful protest in terms of "is the protest lawful or unlawful?" This is an incorrect starting point. The concept of 'unlawful protest' is inaccurate as a matter of law. First, the right guaranteed by ECHR Article 11 is the right to "peaceful assembly", not "lawful assembly". Second, there is no legal basis in domestic law for describing a public protest as inherently unlawful.[11]

Kent Police maintained the security of the Kingsnorth power station, with no significant intrusion of the site by protesters or interruption of the power supply. Kent police were assisted by a phased national police mobilisation involving some 26 police forces, with approximately 1,400 police officers and staff deployed over the period. This was the largest police mutual aid mobilisation of 2008.[12] In the event, no serious injuries or harm were sustained by public, protesters or police officers.

Concerns were raised by local MPs, campaign groups and protesters that the police employed heavy-handed tactics in terms of disproportionate use of stop and search powers, seizure of protesters' camping equipment and personal possessions and a confrontational approach and harassment of media. Officers conducted a total of 8,218 stop and searches throughout the operation[13] Of these searches, over 6,000 stop and search records submitted by officers were recorded as either indecipherable or lacking in sufficient detail to be added to the Kent Police Stop and Search database.[14] The poor quality of submitted search forms[15] by officers is a cause for serious concern. Approximately 600 items of property were seized from protesters. 146 complaints were received. Police made 100 arrests, with 46 individuals charged and 22 individuals cautioned.[16]

The National Policing Improvement Agency (NPIA) conducted a structured debrief of the policing operation for Kent Police in October 2008. The Chief Constable of Kent then commissioned, through the NPIA and ACPO, an ACC from South Yorkshire Police to conduct a further strategic review. The report of the strategic review was provided to Kent Police in July 2009.

10 ACPO/NPIA Strategic Review Final Report, July 2009, p.10.

11 The common law offence of unlawful assembly was explicitly abolished under section 9 of the Public Order Act 1986 and neither the Public Order Act 1986 nor the law on obstruction of the highway renders a protest *in and of itself* unlawful. Appendix 4 outlines the legal framework for policing protest.

12 NPIA Debrief Report, 9 October 2008, p.6.

13 3,550 searches were carried out under the Police and Criminal Evidence Act 1984, s.1.

14 In total, 1, 745 records of searches were added to the Kent Police Stop and Search database.

15 As evidenced in the NPIA Debrief Report, 9 October 2008, p.20.

16 Kent Police powerpoint summary.

The NPIA/ACPO strategic review recognised a number of positive operational measures[17] taken by the police, including:

- The overall approach to management of logistics.
- The adoption of a clearly defined criminal justice strategy.
- The production of a visiting force information pack (important given the scale of mutual aid: the operation involved officers from 26 forces).

The two reviews highlighted a number of critical issues in relation to the policing operation, including:

- The absence of an overarching threat and risk assessment for the operation.
- A lack of strategic clarity, which extended to the lack of a clearly defined search strategy.
- A lack of appropriately trained commanders at Gold and Silver level.
- The absence of a Silver tactical plan.
- Inadequately trained operational planning teams and inadequate operational briefings.
- A lack of understanding of the law and police powers, particularly in relation to stop and search and a lack of consistent use of public order tactics and roles among forces.

HMIC has met with the Chief Constable of Kent and the Kent Police Authority to discuss the post-operation reviews. Kent police have indicated that important lessons have been learned. However, the failings set out above are not unique to the Kingsnorth policing operation. During its national review, HMIC has identified similar issues regarding command capability, lack of understanding of the law and inappropriate use of police powers repeated in a variety of public order operations around the country.

3. Tamil Protests, Parliament Square, London, April-June 2009

The high profile three month Tamil protest in Parliament Square in London followed rapidly in the foot-steps of the G20 policing operation. As part of its national review of policing protest, the HMIC review team interviewed a number of the MPS public order commanders who acted as Gold and Silver during the three month operation. A discussion of the three month protest, the challenges faced by the MPS in policing the protest and the policing style adopted for the operation are set out below.

During the early afternoon of 6 April 2009, a large number of protesters from the Tamil community began to gather in the streets around the Palace of Westminster. The protesters moved onto Bridge Street and Westminster Bridge, sitting down in the road and stopping traffic. This was the start of the Tamil protest. However, it had been preceded by a British Tamil Forum March held in London on 31 January 2009, which,

[17] ACPO/NPIA Strategic Review Final Report, July 2009.

although notified with an estimated number of 5,000 participants, involved between 60,000 and 100,000 people.[18] This provided a significant policing challenge[19] and during the event, around 400 Tamil protesters broke away from the main demonstration and staged a sit down protest on Westminster Bridge, which lasted several hours before dispersing peacefully.[20]

The history of the January 2009 march sparked concerns when the MPS received notification of another march by the British Tamil Forum to be held on 11 April 2009. The MPS sought reassurances from the British Tamil Forum regarding the numbers and intent of the protesters. On 6 April 2009, large numbers of Tamils began to swell the streets around Westminster. The policing response was initially led by officers from the local borough, supplemented by the Metropolitan Commissioners' reserve.

The protest quickly swelled onto the road and a sit down protest was staged on Bridge Street and Westminster Bridge. Police attempted to negotiate with protesters but found it very difficult to find someone who could influence any more than a handful of protesters, partially due to the non-hierarchical structure within the Tamil community. Police were also confronted with determined protesters who were threatening to jump off Westminster Bridge into the River Thames. In the event, one protester jumped off the bridge on 6 April, and another jumped off the bridge on 7 April.

The police did not forcefully remove the protesters from Westminster Bridge, partially due to the presence of women, children and elderly protesters who appeared to be used as a buffer between the police and the male protesters.[21] During the night of 6 April, the numbers of protesters reduced and police moved to clear Westminster Bridge during the early hours of the morning. Protesters were pushed back towards Bridge Street, ultimately onto the paved area of Parliament Square. The protest remained at this site for some 73 days, during which time on a number of occasions protesters staged sit down protests on the roads around Westminster. On 6 April, two protesters informed police they had begun refusing food and a list of demands was delivered to 10 Downing Street.

Police had initially believed that the protest would conclude after the planned march on 11 April 2009.[22] The march itself passed off without incident, attracting somewhere in the region of 100,000 protesters. The MPS was publicly thanked by the British Tamil Forum for their sensitivity and respect for their march.[23] However the protest continued after the march concluded.

18 MPS estimated the total attendance at 60,000 while a number of Tamil Community websites put the figure around 100,000, such as *100,000 Tamils March In London Over Sri Lankan Concentration Camps* http://www.tamilnet.com/art.html?catid=79&artid=29625

19 Chief of Staff Interview, Tamil Protests.

20 Ibid.

21 Ibid.

22 Ibid.

23 *Historic Show of Strength for victims of Sri Lankan Genocide of Tamils*: http://www.tamilsforum.com/Press_Release_-_Historic_Show_of_strength_in_support_11_apr_09.pdf.

Around 17 April, the MPS and the London Ambulance Service were served with an Advance Directive notice,[24] which prevented the MPS or the London Ambulance Service providing any treatment in the event that either of the hunger strikers lapsed into unconsciousness.

On 20 April, 2,500 protesters staged a sit-down protest on the streets around the Palace of Westminster, timed to coincide with the return of Parliament from its Easter recess. The streets remained closed until 8.30pm when police began to clear protesters off the road. At this point, the majority of protesters peacefully moved back onto Parliament Square.

On 11 May, there was a large increase in the number of protesters and once again protesters staged a sit down protest in the road. Police officers prevented protesters gaining access to the Palace of Westminster, despite being confronted with violence for the first time – barriers were dismantled and thrown at officers. Over a period of hours, protesters were moved back onto Parliament Square.

From 13 May, the numbers of officers policing the demonstration significantly increased as police feared the impending final stages of the conflict in Sri Lanka would result in large numbers of protesters in London. The numbers of protesters did not substantially increase and by 25 May, it was clear that the protest was coming to an end. Significant negotiations between police commanders and organisers took place on 25 May resulting in an acceptance by the organisers that the protest would be brought to an end.

Comment

Police commanders devoted a significant amount of their time to negotiating and communicating with groups of protesters. However the disparate nature of the protest crowd limited the influence of each individual group and hindered police attempts to negotiate. From 8 April, the police deployed Tamil police officers from the MPS Community Contact and Reassurance Unit to engage and communicate directly with the protesters. Police commanders had concerns regarding the messages the protesters were receiving both through the media and the community. The Tamil officers formed a crucial link between police commanders and the Tamil Community and the officers regularly attended Gold and Silver meetings to brief the command team.

Protesters willing to risk their own lives for their cause pose significant challenges for the police, who have a duty to protect life.[25] The marine police unit had two vessels on standby in case anyone jumped or fell off Westminster Bridge. Given the number of protesters on Westminster Bridge at certain times, the emergency services would have faced a significant challenge had a large number of persons jumped off the Bridge. Contingencies were also put in place and legal advice sought as to the duties of the MPS in relation to the hunger strikers.

[24] Advance Directive or Decision, is a decision by a person with the requisite capacity to refuse any or all treatment, the decision is provided for by Section 24 of the Mental Capacity Act 2005.

[25] Chief of Staff Interview, Tamil Protests.

On several occasions during the protest event, the police became aware that there were incorrect rumours circulating within the Tamil community that the police intended to disperse the protesters or refuse authority to continue the protest. Police used Bluetooth messaging as a means to communicate with protesters, explaining the policing approach and stating that the police did not intend to disperse protesters and that permission to protest would continue.

4. British National Party Festival, Derbyshire, August 2009

On 15 August 2009, the British National Party (BNP) held its annual Red, White and Blue Festival near Codnor, Derbyshire. The Festival was a private event on private property. However, it attracted around 1,500 protesters to the Denby area.[26] A number of groups indicated their intention to stage a protest against the event, including United Against Fascism, the Trade Unions Congress, the Amber Valley Campaign against Racism and Stop the BNP.[27] The police used their powers under the Public Order Act 1986 to place a number of restrictions on the protests to prevent serious disorder, serious damage to property and serious disruption to the life of the local community. The police designated Codnor Market Place as the area for public assembly prior to and following the procession between 9am and 5pm for all those attending the demonstration[28] and placed conditions on the public procession between Codnor Market Place and Codnor Denby Lane.[29]

The police were also granted an order by Amber Valley Borough Council prohibiting trespassory assemblies on private lands adjacent to the event site covering an area with a radius of not more than five miles.[30] The order was granted to prevent disruption to the event and disruption to the local community. The Derbyshire Police statement explaining the imposition of the restrictions said that the police were "trying to find a balance between allowing legitimate assembly and maintaining public safety and minimising inconvenience to people who live or work in the affected area."

BNP organisers stated that around 100 guests were prevented from getting to the event. Local residents in the town also complained of disruption.[31] A large police operation dealt with protests and the festival at a cost of around £500,000. Nineteen arrests were made. Following the event, the BNP stated that it would consider moving the 2010 event to avoid further disruption to the residents in the area.

[26] *BNP Considers Festival Move*: http://news.bbc.co.uk/1/hi/england/derbyshire/8209074.stm.

[27] *More than 1000 protest at BNP Event*: http://news.bbc.co.uk/1/hi/england/derbyshire/8201022.stm.

[28] Under s.14 of the Public Order Act 1986.

[29] Under s.12 of the Public Order Act 1986.

[30] Invoking s.14A of the Public Order Act 1986.

[31] Ibid.

Comment

This event demonstrates the complexity for the police of managing public and private space where groups want to assemble to express opposing opinions and beliefs.[32] The Derbyshire Police had experience of policing a similar event last year and used their powers under the Public Order Act 1986 to facilitate the public procession and assembly (albeit with restrictions), prevent disruption to the private BNP event and prevent serious disruption to the local community. Even here, however, there appears to have been some confusion regarding the proper use and application of police powers under the Public Order Act 1986 by some officers on the ground.

5. Ban of English Defence League Protest, Luton, September 2009

In August 2009, the English Defence League (EDL)[33] indicated its intention to hold a march in Luton. Due to a number of previous EDL marches held in Luton which were associated with disorder, the Bedfordshire police applied to Luton Borough Council for a banning order under section 13 of the Public Order Act 1986.[34] Bedfordshire Police stated: "the risk the proposed marches pose to public safety has left us with no alternative but to apply for a banning order."[35] Luton Borough Council issued a banning order with the consent of the Home Secretary. The banning order prohibited "any procession or march involving members or supporters of but not limited to the English Defence League, UK Casuals United, March for England and United People of Luton or any associated group or any march which has not been applied for in accordance with Section 11 of the Public Order Act 1986" in any place within the Borough of Luton at any time for a period of three months from 27 August 2009.

Comment

It is a very significant step to take the decision to ban a public procession.[36] The mere fact that a march or procession may annoy others, or even offend them, is not a sufficient basis for restricting it.[37] And where there is a threat of disruption or disorder from others, the relevant authorities (including the police) are under a duty to take reasonable steps to

[32] Freedom of expression not only applies to ideas or opinions that are popular or favourable, but also to those that offend, irritate, shock or disturb individuals or a section of the population. However, it is an offence under the Public Order Act 1986 to use threatening, abusive or insulting words or behaviour, or to display any threatening, abusive or insulting material, which is likely or intended to cause harassment, alarm or distress (ss.4A and 5), or which is intended to cause fear of or provoke unlawful violence (s.4) or which is intended to stir up racial or religious hatred (ss.17 and 29A) .

[33] See footnote 1 for history of EDL.

[34] A banning order issued under s.13 of the Public Order Act 1986 prohibits the holding of public processions for a period of no more than 3 months.

[35] Chief Superintendent Alan Frost, Luton Borough Commander, as reported in *Rightwing March ban over fear of violence:* http://www.guardian.co.uk/world/2009/aug/21/rightwing-march-ban-luton.

[36] The power to ban protests was first introduced in the Public Order Act 1936 following violent clashes between fascist and anti-fascist protesters culminating in the Cable Street riots of November 1936. Even then, the power was hotly debated and justified only as a measure of last resort.

[37] *Refah Partisi v Turkey* [2002] EHRR 56.

protect those who want to exercise their rights peacefully.[38] That does not mean that there is an absolute duty to protect those who want to march.[39] However, banning a march or procession will only be justified where there is a real threat of disorder that cannot be prevented by other reasonable measures.[40]

The blanket application of a ban of all marches or processions of a particular type raises issues regarding proportionality, as there is no ability when such a ban is imposed to consider the particular circumstances of each individual procession. The decision-making process leading to a ban or the imposition of other significant restrictive measures on a march or procession must be fair and afford due respect to the rights of those who wish to protest.[41] In addition, the containment of a mere speculative danger, as a preventive measure, will be unlikely to be seen as a "pressing social need" under ECHR Article 11(2).[42] The imposition of a banning order for public processions of a particular type in one force area may have an impact in other force areas and raise public expectations that the police will not facilitate marches or processions of that particular type but will instead seek to ban such marches or processions from taking place. It should therefore be rare indeed for the Secretary of State to consent to an application to ban a public procession and the decision-making process leading to a ban should be clear and transparent, both for protesters and for the police.

HMIC recommends that the Home Office should provide guidance on the circumstances in which the Secretary of State is likely to consent to an application to ban a procession or a certain type of procession under section 13 of the Public Order Act 1986.

6. English Defence League Protest, Birmingham, September 2009

The English Defence League (EDL) indicated that they intended to hold a demonstration in Birmingham City Centre on 5 September 2009. West Midlands Police anticipated a counter-demonstration by United Against Facism (UAF) and affiliated groups.[43] Plans published on the EDL website indicated suggested routes to the assembly and suggested that police would escort EDL members to the assembly location. This had not been agreed with the police.[44]

38 *Plattform Ärtze Für das Leben v Austria* [1988] EHRR 204.

39 Ibid.

40 *Christians Against Racism and Fascism v UK* [1980] 21 DR 138.

41 The European Court of Human Rights has held that it is unacceptable that an interference with the right to freedom of assembly could be justified on the basis of the authorities' own view of the merits of a particular protest: *Hyde Park and Others v Moldova* [2009] (App. No. 45095/06).

42 *Vajnai v Hungary* [2008] (App. No. 33629/06).

43 West Midlands Police information to HMIC, November 2009.

44 West Midlands Police information to HMIC, October 2009.

Due to emerging community tensions associated with various EDL protests, the HMIC Review team observed the policing operation for the 5 September protests in Birmingham. Members of both protest groups began to arrive in the City earlier than anticipated on the day of the demonstration and a number of minor confrontations broke out around the City Centre. Police separated the protest groups using cordons and came under attack from both protest groups, who threw bricks and bottles.[45] At about 6.30pm, EDL protesters boarded buses and the remaining UAF protesters began to disperse. In total, 90 arrests were made. The majority of these arrests were made away from the city centre in connection with damage to buses transporting the protesters.

Comment

This public order policing event demonstrates the challenge of balancing the competing – and sometimes conflicting – rights of different groups to gather and protest in the same space. Facilitating groups who wish to express opposing views in close proximity to one another is not straightforward.[46] The consequent increase in both community tension and threat of disorder require careful consideration by the police and may justify the imposition of restrictions on both public processions and assemblies. The police have the duty not to interfere unjustifiably with the right to peaceful assembly but in addition, they have a duty to take positive measures to protect the participants in a peaceful demonstration from disruption from a violent counter-demonstration.[47] However, while it is the duty of the police to take reasonable and appropriate measures to enable peaceful assemblies to proceed, there is no absolute duty to protect those who want to exercise their right to peaceful assembly and the police have a wide discretion in the measures they use.[48]

7. Camp for Climate Action, London, August-September 2009

Between 26 August and 2 September 2009, a Camp for Climate Action took place in Blackheath, London. Around 1,000 protesters staged a week long Climate Camp to highlight environmental concerns within the sight of the financial centre of the City of London.[49] Police promised a low key response, with the focus being on a neighbourhood policing style and building relationships with the protest community.[50] The Climate Camp passed off peacefully. During the camp, there were two days of action and companies including BP, Royal Bank of Scotland and public relation agencies representing E.ON (the energy company) were targeted by protest activities.

45 West Midlands Police information to HMIC, November 2009.

46 See footnote 32.

47 *Plattform Ärtze Für das Leben v Austria* [1988] EHRR 204.

48 Ibid.

49 *Activists Gather at Climate Camp*: http://news.bbc.co.uk/1/hi/england/london/8222488.stm.

50 Ibid.

Comment

As part of its consideration of the public order operation relating to the Climate Camp event, HMIC reviewed the MPS Silver Tactical Plan and has met with the MPS Silver Commander and representatives of Climate Camp to discuss the policing operation.

The Silver tactical plan made clear that although there were no identified organisers for the event, Climate Camp had nominated a number of individuals to act as police liaison. The intentions of the Camp were identified from Climate Camp publicity material. The tactical plan noted that as this was the first Climate Camp to base itself within a residential community within London, additional issues might arise in relation to community reassurance and early police communication once the location was identified.

The Gold strategic intentions included the following:

- Providing a proportionate policing response to protest.
- Minimising disruption to those living, working and visiting the area.
- Proportionate policing of instances of public disorder.
- Providing an information network for use by persons involved with or potentially affected by Climate Camp actions.
- Developing a strategy to facilitate effective communication with the media.

The Gold strategic intentions did not include the facilitation of peaceful protest. However, the Silver tactical plan recognised that the police, as a public authority, has obligations under ECHR Article 11 (freedom of peaceful assembly) and sought to integrate the recommendations made in A*dapting to Protest* within the tactical plan. The tactical plan recorded that the police would not prevent the Climate Camp from setting up and stated that "legitimate and proportionate restrictions will only be considered if they are necessary (such as in the interests of public safety or the protection of the rights and freedoms of others)".

The tactical plan specifically addressed the following:

- Communication with protest groups
- Communication with the public
- Negotiation
- Training and guidance on the use of force
- Containment
- Identification of officers
- Command structure
- Operational parameters
- Early police response at the camp
- Officers patrolling the camp
- Police use of stop and search
- Dispersal
- Arrest.

The MPS Silver tactical plan for the policing operation surrounding the Climate Camp at Blackheath demonstrated a commitment to integrating the findings and recommendations of *Adapting to Protest*. This tactical plan is a useful template for planning large scale policing operations of this kind and HMIC welcomes ACPO's dissemination of a document outlining the learning outcomes of this policing operation. A copy of the ACPO document is reproduced at Appendix 2.

KEY THEMES EMERGING FROM NATIONAL REVIEW

A number of themes have emerged from HMIC's national review of public order policing operations:

1. The failure of some forces to complete a threat and risk assessment in relation to specific public order policing operations.

2. A variation across forces in levels of understanding of the law and proper use of public order police powers, as evidenced by Drax 2006; Kingsnorth 2008 and the G20 in April 2009. This weakness was demonstrated in command documents and operational planning and was reflected in the actions of officers on the ground.

3. Inadequate numbers of appropriately trained Gold and Silver commanders in a number of forces, as seen at Kingsnorth 2008 and the EDL protest in Birmingham.

4. Local variation in public order command and tactical training.[51]

5. Inadequacy of briefings given to front line officers before deployment. Adequate briefing is critical for all public order operations. Briefing provides commanders with the opportunity to set the tone and policing style of the operation; establish the legal framework under which the police are operating and identify relevant legal powers; clarify particular roles and responsibilities and set out their expectations of the officers on duty.

6. The value of post-operation debriefs and external reviews. Post-event debriefs or reviews are critical for identifying the positive and negative aspects of a policing operation, lessons to improve future performance and steps to be taken to prevent a repetition of any mistakes made. The structured debriefs and/or external reviews conducted by the NPIA in relation to the Drax Climate Camp in 2006 and the Kingsnorth Climate Camp in 2008 demonstrate the value of post-operation scrutiny in identifying problems and highlighting areas for improvement. There is currently no national generic guidance on public order operational debriefs.[52] HMIC considers that more

[51] For example, the NPIA currently has no quality assurance over MPS command training. Other forces (eg Greater Manchester Police, West Yorkshire, West Midlands, Merseyside and the Police Service of Northern Ireland) have received accreditation by NPIA to run command training.

[52] Certain other police disciplines have developed their own guidance, for example, the ACPO Murder Investigation Manual details the requirements of a Major Crime Review.

detailed guidance and instruction on post-event debriefs and reviews should be included in the revised *Keeping the Peace* manual.

However, HMIC's national review has also identified a number of positive signs in recent months following the publication of *Adapting to Protest*, including:

(a) Recognition by the police as a service of the correct starting point for policing protest as the presumption in favour of facilitating peaceful protest.

(b) The development of integrated communication strategies and the use of new technologies by the MPS, as evidenced by the communication strategy adopted for the Climate Camp at Blackheath in August 2009.

(c) Committed attempts to facilitate contentious protests and counter-protests in Derbyshire, Birmingham, Swansea, Gwent and Leeds.

The way forward

HMIC does not consider that the answer to modernising and strengthening public order policing in the UK lies in introducing more public order legislation (as advocated recently in some quarters) to add to the already complex legislative public order framework. Rather, it is vital that police officers of all ranks properly understand the existing legal framework of police public order powers and duties, including their obligations under the Human Rights Act 1998.

The maintenance of public order and ensuring the safety of the public at large events is a high profile policing activity which attracts significant media and public attention. Due to the significant numbers of people attending these events, police forces regularly request mutual aid from other forces to help support them in their policing duties. There has been an increased use of mutual aid as the number of large scale public events increases. HMIC's review of large scale policing operations demonstrates a lack of consistency in approach and use of policing tactics. Forces use different equipment, apply different police powers and operate under different command structures. Some police forces do not use accredited public order commanders.[53] HMIC's findings are confirmed from the reviews conducted by the NPIA of operations which highlight a lack of consistency in public order training and deployment.[54] HMIC considers that steps must be taken immediately to rectify this lack of consistency and wide-spread variation in use of police powers and tactics across the forces of England, Wales and Northern Ireland. The next section proposes how this might best be achieved.

[53] This is in contradiction to the recently published ACPO *Manual of Guidance on Command and Control* (2009) which states that "officers discharging command responsibilities should be competent and able to demonstrate how they achieved, updated and maintained this competence."

[54] For example, NPIA Structured Debrief Report into Camp for Climate Action, Kingsnorth 2008.

B. DEVELOPING CONSISTENCY FOR PUBLIC ORDER POLICING

There are a variety of statutory and non-statutory mechanisms for introducing national standards or guidance for particular policing activities. Each mechanism differs in the degree of discretion given to chief officers in relation to implementation and compliance, from statutory regulations which are legally binding to practice advice which is entirely informal and discretionary. Table 3 below defines the status and reach of the various mechanisms.

Table 3: Mechanisms for introducing national standards for policing practice

Mechanism	Status and Scope
Regulations	Prescriptive secondary legislation with which chief officers must comply.
Codification	Codes of practice (issued by the Home Secretary) specify the framework within which all chief officers must establish operating procedures for their police forces. A Code is usually issued where a nationally consistent framework is identified as necessary. Chief officers must 'have regard to' the requirements of the Code and must justify any deviation from it. Compliance is monitored.
Guidance	Produced by ACPO working groups, the NPIA and the Home Office. Chief officers should be informed by the guidance but are not bound by it and can choose not to comply with it. Experience shows that compliance with guidance increases the greater the levels of organisational risk and external scrutiny. For example, compliance with both the Murder Investigation Manual and the ACPO Manual on the Police Use of Firearms is high across the UK.
Practice Advice	Produced by ACPO in partnership with the NPIA. A relatively new concept, practice advice is often developed to supplement guidance, focusing on specific specialist areas. Adherence is fully discretionary.

Codification

The Police Reform Act 2002 introduced a new power[55] which permits the Secretary of State to issue codes of practice for the purpose of promoting the efficiency and effectiveness of police forces in England and Wales relating to the discharge of their functions by chief officers.[56] This new power was intended to provide the Secretary of State with a vehicle, short of secondary legislation, by which to promote the efficiency and effectiveness of police forces. The intention was that Codes would be issued selectively, only when "manifestly necessary in the wider policing interest." However, the

[55] Under s.39A of the Police Act 1996.

[56] Codification was developed as an element of the policing reform agenda set out in the 2001 White Paper *Policing a New Century: A Blueprint for Reform*.

deployment of firearms and less lethal technologies was referenced specifically as matters of major public concern.[57]

Since the new power was enacted in 2003, six Codes of Practice have been issued by the Secretary of State, including those for the use of the Police National Computer; Serious Crime Analysis; the National Intelligence Model; the Management of Police Information; Missing Persons; and the Police Use of Firearms. A further five areas of policing are currently under consideration, including the Police National Database and Police Pursuits.[58] The outcome of a failure in the use of information by police may not be as immediately visible as that within the management of operations where a fatal or serious injury may occur, but overall, both areas of police work share a common theme – they are high risk.

While the number of business areas under consideration may raise questions about the ability of the police service to establish consistent professional practice without formal intervention, ACPO officers whose business area has benefited from codification speak of the powerful message it sends across the service and the improvement in national standardisation and practice. HMIC has carefully reviewed the codification procedure in relation to the police use of firearms to assess the value of codification. This case study is discussed in more detail below.

Case Study: Codification of the Police Use of Firearms

Code of Practice on Police Use of Firearms and Less Lethal Weapons

The Code of Practice on Police Use of Firearms and Less Lethal Weapons (currently under review) came into effect in December 2003. The objectives of the Code are as follows:

1. To set out the basic principles and method of implementation for the selection and acquisition of firearms and less lethal weapons by police.
2. To provide a statement on standards of competence, accreditation and operational practice.
3. To ensure observance of the overarching principles.
4. To promote compatibility of operating procedures and support operations involving officers drawn from more than one force.
5. To foster good practice and support continuous development.

The law relating to the use of force and its relevance in police firearms operations is set out in the Code, as is the legal duty that officers responsible for planning and undertaking operations where use of force is a possibility must minimise, to the greatest extent possible, any recourse to the use of force. The Code requires chief

[57] 2001 White Paper *Policing a New Century: A Blueprint for Reform.*

[58] Policing Portfolio Group paper, September 2009.

officers to conduct force-level threat and risk assessments to inform decision-making with regard to types of weaponry, deployment, numbers of officers trained to use firearms and to command firearms operations. The standardisation of training, the achievement of specified levels of competence and the independent accreditation of training together act to promote high standards of professional practice and greater national consistency.

In response to codification, a National Police Firearms Training Curriculum was devised. The first stage of the licensing process required forces to assess their firearms training against the national curriculum.[59] The work required by forces and the evaluation by the NPIA team responsible for licensing[60] was a lengthy process and the scale of the challenge for forces and the NPIA should not be underestimated. In September 2009, the last of the 44 forces was visited and assessed. It is anticipated that all forces will be licensed by December 2009.

In parallel to the national implementation of the Firearms Training Curriculum, ACPO developed, piloted and approved Silver Firearms Command training which is currently available nationally from 14 training centres. Development of national Gold Firearms Command training commenced in April 2009.

ACPO Manual of Guidance on the Police Use of Firearms

The *Manual of Guidance on the Police Use of Firearms* (2006) clearly lays out the legal framework for the use of force, referencing relevant provisions of the ECHR and the Human Rights Act 1998. The Manual identifies the individual responsibility of officers to know the extent of their legal powers and the context in which those powers can be properly exercised, stating that "it is unacceptable for a police officer to claim ignorance of the law".

The revised Manual, which came into force on 1 November 2009, deals with human rights in even greater detail. ECHR Article 2 (right to life) is explored in depth, and there is explicit discussion of ECHR Articles 3 (prohibition against torture, inhuman or degrading treatment), 8 (right to respect for private and family life), 14 (prohibition against discrimination).

Updating forces on change to professional practice

For over ten years, the ACPO Working Group on Armed Policing has disseminated in the region of 40-50 national circulars to provide updates and guidance in policy, procedure and practice to chief constables, chief firearms trainers and force armourers. Circulars published over the last two years include details of:

[59] Prior to the national curriculum, forces had no detailed curriculum for firearms training: training across the UK varied greatly in terms of content, assessment, re-assessment and accreditation.

[60] The introduction of a 'training licence' for each force was considered to be the best way to achieve national consistency.

- The new policy on police use of firearms in public disorder;
- Consultation documents in relation to the proposed new Manual of Guidance on the Management, Command and Deployment of Armed Officers;
- Notification of weapon and ammunition failures which could impact upon forces' operational capability.

CONCLUSION

This report demonstrates the need for a nationally consistent framework for public order policing. There are essentially two routes to achieving consistency of standards and approach to public order policing across the 44 forces of England, Wales and Northern Ireland. The first is through professional consensus among the 44 forces. This is possible but no unanimous consensus has emerged to date. The second route is codification. A code of practice sets out basic principles in relation to a particular policing activity and the manner in which those principles are to be implemented within the police service. It provides a statement on the standards of competence, accreditation and operational practice relating to that area of policing and results in a systematic programme of continuous development of police policy, practice and capability.

The public has a right to expect a professional and proportionate police response to large scale public events. Much of the experience gained from devising and implementing the firearms code of practice can be exploited to reduce time and bureaucracy in developing a code of practice for public order policing. In light of its review of the approach taken to standardise police use of firearms, HMIC considers that unless the Home Office, ACPO or the NPIA can propose another convincing mechanism, codification of public order policing offers the best approach to achieving national consistency on public order policing.

HMIC recommends that public order policing should be codified under section 39A of the Police Act 1996 to ensure national consistency of standards, guidance and training.

As part of the codification process, the opportunity should be taken to consider the format of the underlying manual of guidance and training curriculum. In particular, thought should be given to the manner in which practical guidance is communicated to public order commanders and how to reduce reliance on extensive manuals of guidance which are difficult to access and expensive to update and train. By way of illustration, HMIC has developed a series of human rights compliant decision-making flow diagrams[61] for protests in public and private space (see Chapter 7). These diagrams translate a large amount of information for practitioners and provide practical assistance both to Silver commanders planning public order operations and to Bronze commanders reacting dynamically to events on the ground during public order operations. They should ensure a human rights based approach to the policing of protest.

[61] These decision-making flow-diagrams were designed by HMIC's Human Rights Advisor and agreed with Senior Counsel.

CHAPTER 3

COMMUNICATION

> The police must develop a no surprises communication philosophy with protesters, the wider public and the media. Protesters and the public should be made aware of likely police action in order to make informed choices and decisions.

Protest, Malmö Sweden 2009 – With kind permission of Emi J Kilberg

COMMUNICATION

Adapting to Protest spotlighted the need for the police to develop effective communication strategies – with protesters, the public and the media. This chapter looks at three case studies – from Sweden, Northern Ireland and murder investigation – which offer lessons for the development of more effective communication strategies in public order policing operations.

The need for effective police communication

Adapting to Protest highlighted the impact of the digital communication age and called on the police to recognise the impact that instant communication has on exposing the police to ever increasing levels of scrutiny. It spotlighted the need for the police to develop effective communication strategies – with protesters, the public and the media.[1] At times, the police have been deficient in communicating with protesters. They need to modernise their approach and be more inventive in using new technologies to engage with hard to reach or resistant communities. The police must also develop more effective media communication strategies. The media are the eyes and the ears of the people. They play a central role in determining public opinion and are therefore a key influencer of public confidence in policing. It is no longer an option for the police not to include the media in briefings before, during and after large scale public order events.

This chapter looks at three case studies which offer lessons for the development of more effective communication strategies in public order policing operations. The first case study looks at the role of dialogue police in Sweden. The second case study explores the role of community engagement in policing contentious parades and protests in Northern Ireland. The final case study considers communication models adopted in police murder investigation in the UK.

[1] *Adapting to Protest*, Recommendations 2, 3 and 4.

CASE STUDY A: DIALOGUE POLICING IN SWEDEN

Following serious public concerns regarding the police response to large-scale protests during the European Union Summit in Gothenberg in 2001, Sweden has developed a new approach to policing protest which focuses on improving communication between police and protest groups through the use of dialogue police. This model, which we discuss in more detail below, has important lessons for public order policing in the UK.

In June 2001, Gothenburg, Sweden was the venue for a European Union summit. Around 25,000 people took part in protests at the summit. Violence surrounding the summit resulted in extensive damage.[2] As a consequence of a series of incidents, a mass arrest of 459 people took place, three demonstrators were injured by police gunfire and 150 people, including 50 police officers, required hospital treatment. The police commander was subsequently put on trial over the decision to make the mass arrest. He was acquitted but the event became a critical incident for the Swedish Police. The Swedish Government established the Gothenburg Committee to investigate the circumstances surrounding the serious violence and the police response. In its final report,[3] the Committee highlighted lack of ability and failures in interoperability, while emphasising the importance of dialogue.

The report led to the development of a common national tactical concept for policing crowds. The concept was informed by research which identified the critical manner in which interactions between demonstrators and police governed escalation of disorder. The Swedish National Police Board developed and began to implement a new model to policing protest which included 'dialogue police'.[4] The primary role of dialogue police is to act as a communication link between demonstrators and police commanders with the goal of facilitating protesters' legitimate intentions, identifying potential risks to public order and avoiding confrontation.

The value of dialogue

Through dialogue, police can explore the intentions of the protesters and better understand their aspirations. Any conditions or restrictions placed on demonstrations can be explained, discussed and negotiated. As a former Swedish dialogue officer has commented:

> "Fundamentally the tactic recognises that when police are uncompromising with protesters, the risk of injury to persons or property increases. However when there is an open dialogue, the risk is reduced."[5]

2 *Three Shot at EU Summit:* http://transcripts.cnn.com/2001/WORLD/europe/06/16/eu.protests/

3 Gothenburg 2001 – Report from the Gothenburg Committee available at: http://www.sweden.gov.se/sb/d/136/a/3816;jsessionid=ab4U-mW4Nfb6

4 Dialogue police work in pairs and normally wear civilian clothes but are distinguishable by yellow bibs which display the words 'Dialogue Police'.

5 Holgersson, S (unpublished draft) *Dialogue Police: Experiences, Observations and Possibilities.*

Where protest groups are unwilling to communicate with the police, the aim of the dialogue police is to begin a process of engagement with these groups which may lead to more meaningful communication and dialogue in the future.

The role of dialogue officers

The ultimate objective for dialogue officers is to facilitate freedom of expression and peaceful protest and to reduce confrontation between crowds and police. The role of dialogue police can be summarised into five core functions, defined in Table 4 below.

Table 4: The core functions of dialogue police

Function	Definition
Negotiation	To facilitate compromises and agreements between police commanders' interest in getting the best tactical conditions, and the protesters' interest to get best terms for their goal.
Mediation	To explain the police point of view to groups of demonstrators and the demonstrators' view to the police, in order to increase mutual understanding and avoid stereotyping.
Initiation	To come up with possible solutions to avoid or minimise the risk for conflicts and confrontations.
Communication	To function as link between demonstrators and commanders in their exchange of information.
Sensing	To read moods and preparedness for action in the group of demonstrators and how that is affected by police activities and to inform commanders of consequences of different courses of actions in a short and long term perspective.

The dialogue police officers work before, during and after events to establish links to protest groups, adopting a 'community policing' style to engage with protest participants. They seek to create lines of communication and negotiation between police commanders and influential protesters during protest events.[6] Since they have points of contact with protest groups, they can assist commanders by providing advice on, and negotiating potential impacts of, different courses of police action.

The Stockholm dialogue police have been used in different contexts, including:

- Marches by right-wing groups.
- Festivals where there was a risk of disturbances or conflict between groups.
- Election related protests and open-air rallies of various kinds.
- Football matches with underlying ethnic tensions.
- Animal rights protests.
- Urban disorder.

[6] Many dialogue police have backgrounds as negotiators.

Initially there was a great deal of hostility to the dialogue police from protesters, and also from police colleagues. The role of dialogue officers became more widely accepted as their knowledge of specific protest groups grew and enabled the police to better manage its response.[7] Police commanders began to recognise that dialogue had positive effects in terms of reducing disorder. Reductions in violence between protesters and police, also made regular officers began to see the benefit of the work of the dialogue police. Dialogue police officers are now an established and highly effective component of the Stockholm Police Department.[8]

Levels of Dialogue

(i) Dialogue pre-event

Dialogue between police and protesters before an event informs expectations and reduces the chance of action or conduct by either party during an event being interpreted as provocative, which in turn reduces the likelihood of a violent response.[9] The initial dialogue allows police to explain the need for restrictions on an event and to facilitate the legitimate objectives of the organisers.[10] Dialogue officers are also a useful resource for police commanders when scenario planning. Their knowledge of protest groups provides a more comprehensive and informed approach. Where groups are unwilling to engage prior to the event, the focus moves to engagement and co-operation once the event has begun.

(ii) Dialogue during the event

While other police are engaged in policing the event, dialogue officers are there to assist with communication between police and protesters. Without other operational taskings, they concentrate on establishing communication lines with protest representatives. Dialogue officers do not wear police uniform but are identifiable by yellow vests. As the dialogue officers are within or close to the protest crowd, they are better able to sense the mood of the crowd and to assess how police actions are perceived. As dialogue officers will often have had long term contact with protest groups, they will be better able to interpret the mood and conduct of the group than someone who is unfamiliar with the group. Similarly, they can interpret and explain the actions of the police to organisers in an attempt to prevent negative responses from the protest crowd.

7 Holgersson, S (unpublished draft) *Dialogue Police: Experiences, Observations and Possibilities*.

8 Holgersson, S and J Knutsson (2009), 'Dialogue Policing – A Means for Less Collective Violence?' in T Madensen and J Knutsson, eds. *Preventing Collective Violence: Crime Prevention Studies Series, Volume 28*, Monsey, NY and Cullompton, Devon, UK, 2011.

9 Granström, 2002 as cited in Holgersson, op cit, p.26.

10 Reicher et al, 2004, as cited in Holgersson, op cit, p.26.

(iii) Dialogue post-event

Dialogue officers facilitate post-event reviews between police and protesters. These reviews offer the opportunity to discuss elements of policing operations which caused difficulty – or were felt to be provocative to protesters – and enables officers to discuss difficulties they experienced.[11]

Evaluation

The work of dialogue officers is credited with minimising – and in many cases averting – confrontations related to protests. The engagement of the dialogue police with protesters offers the opportunity for both the police and protest groups to better understand the objectives and constraints that each faces. While confrontation between protesters and police has not been completely eliminated in Sweden, the level of confrontation and disorder is markedly less than at comparable events in other countries.

The knowledge of the dialogue police of protest groups and their actions has enabled the scale of police operations to be adjusted to the most appropriate level for the event. Potential disorder has been avoided through mediation, direct communication between organisers and dialogue officers and the development of increased levels of trust as a result of these ongoing interactions.

Research indicates that people who have early positive contact with the police are less likely to associate themselves with violent groups, or groups hostile to police. Although dialogue can not completely prevent violence in crowds, it can have a positive effect on relationships between police and the crowd. Therefore dialogue can also affect whether violence and disorder remains isolated or spreads.[12] This depends on the crowd's perception of the legitimacy of police action as discussed further in Chapter 4.

CASE STUDY B: POLICING CONTENTIOUS PARADES AND PROTESTS IN NORTHERN IRELAND

Public order policing in Northern Ireland is inevitably bound up with the question of parades and can raise difficult human rights issues. Those who want to parade have recognised human rights. But equally others who do not want parades, which they consider to be offensive, to pass through the area in which they live have recognised human rights, including the right to protest should they wish to do so (so long as their protest is peaceful) or simply to peaceful enjoyment of their home environment. Balancing these often competing rights and interests is never easy. One of the most significant ways in which the police attempt to facilitate parades and counter-protests in contested spaces across Northern Ireland is through pro-active year-round community engagement. The approach and experience of the Police Service of

[11] Holgersson, op cit, p.40

[12] Reicher 2004, as cited in Holgersson, op cit, p.31.

Northern Ireland (PSNI) has important lessons for police forces in Great Britain as they begin to have to deal with growing numbers of protests and counter-protests in their towns and cities. This section discusses the PSNI approach to engaging with communities who may be hesitant or resistant to communicating with the police.

Early engagement

The starting point for PSNI policing of parades and protest events is the assumption that all persons and groups are entitled to march or demonstrate, provided their actions are peaceful. The same is true for those wishing to protest against marches or demonstrations. Policing operations are planned to facilitate the exercise of the rights to freedom of expression and peaceful assembly, while upholding the rule of law and maintaining order. Experience from the PSNI shows continuous and meaningful engagement with communities as well as parade and protest groups throughout the year is essential to allow for more intense engagement at critical times. It is essential that the police do not merely seek to engage when there is a possibility of disorder.

Engagement as an integral part of the planning process

Community engagement requires careful planning. Any agreements reached through the engagement process regarding the nature of the parade or protest event or the policing operation must be properly briefed and communicated to commanders and officers. This ensures a 'no surprises' approach. Community engagement is resource intensive and therefore should be integrated within the Gold Command strategy and the Silver Command planning process.

The Silver Commander should seek to identify the community engagement requirements as part of the tactical planning process, defining the parameters of the engagement and identifying the officer(s) responsible for engagement. This ensures that engagement is seen as a separate but integrated element of the operation and that it receives the required focus and consideration. An engagement strategy should be prepared identifying key individuals in the parade and protest communities with the potential to influence others within their respective communities.

PSNI recognises that it is important for individual officers to exercise their discretion and judgment to ensure that the engagement process is as open and transparent as possible, while respecting confidentiality where requested or appropriate. Throughout the policing operation, officers should record in policy logs the engagement that has taken place, with whom, by whom and what agreement or result has been achieved. Communication and engagement should be maintained during the operational planning and preparation stages, as well as during and after the event.

Impact of police action on crowd behaviour

PSNI public order commanders emphasise the importance of officers understanding the consequences of their actions in a collective public order policing operation.

Officers and commanders must consider the impact of the style of the operation on the behaviour of parade and protest crowds and the wider impact within the community as part of the operational planning process and contingency planning.

Media as a tactical option

Experience of political distortion of policing operations relating to parades and protests has taught police commanders the importance of using the media effectively to communicate the police message. This is used both as a pre-emptive tactic before an event as well as after the event. The media are invited to a private briefing with members of the operational command team in advance of a public order operation to explain the police approach and intention.

CASE STUDY C: COMMUNICATION MODELS IN MURDER INVESTIGATION

In the past two decades, the police service has undergone a huge amount of change to adapt to the demands of modern society. Policing has evolved to become more professional. National guidance has been produced on a wide range of policing activities. These manuals of guidance contain a large number of valuable lessons. However, potential exists for important learning to develop in isolation of other policing disciplines and remain within specialist areas of police practice. This could lead to inconsistency in approaches adopted by officers both across policing disciplines and between forces.

Murder investigation has been comprehensively revised over the last decade. This section looks at a number of features of murder investigation operations to identify police practice which may have relevance or application to public order policing.

Communication: the role of Family Liaison Officer

The role of Family Liaison Officer (FLO) has become a firmly established practice in murder investigations. The FLO is appointed to "analyse the needs, concerns and expectations of the family... in the context of their human rights" and "to work with the family to comply with their right to receive all relevant information."[13] Guidance on the role and work of FLOs[14] recognises that communication will be more difficult with some families than others and places a positive obligation on police forces to adapt their approach to meet the needs of the family wherever practicable.[15]

[13] ACPO 2006. *Murder Investigation Manual*. Wyboston: National Policing Improvement Agency, p.212.

[14] The ACPO *Family Liaison Strategy Manual* (2003); The *Murder Investigation Manual* (2006) and the *Major Incident Room Standard Administrative Procedures* (2005). These contain comprehensive guidance on the selection, training, deployment and debriefing of FLOs.

[15] ACPO 2006. *Murder Investigation Manual*. Wyboston: National Policing Improvement Agency, p.216.

While the FLO in a murder investigation also has an investigatory role, lessons can be learned from the integration of an officer liaison role as a constituent element of the murder investigation operation. The liaison mindset when communicating with hard to reach groups has clear application to the policing of modern protest events, where protest groups may be hesitant or unwilling to engage or negotiate with police.[16]

Comment

Applying this model in the public order policing context, and cross-referring to the lessons around community engagement learned from the PSNI and Sweden's dialogue police model, there are strong arguments in favour of establishing a role such as Protester Liaison Officer as an integral part of the planning process for large scale public order operations. HMIC is aware that the NPIA is engaged in an EU funded project led by the Swedish police to identify and spread good practice across Europe.[17]

Community Consultation: the use of Independent Advisory Groups

A new model of community consultation has been integrated into the national approach to murder investigation. Independent Advisory Groups (IAGs), made up of key members of the community, are now established within complex murder investigations both to advise the police on development of investigation policy and to act as a critical friend at times of operational necessity. National guidance states that IAG members should be "granted access to all the appropriate information"[18] and directs the Senior Investigating Officer (SIO) of the investigation to "anticipate that their strategies will be challenged by the IAG and make a commitment to the group to act on their advice"[19].

This principle of constructive challenge is also found within national guidance on managing critical incidents which states "the process of developing independent involvement may at times be uncomfortable, but it has overwhelming benefit in the achievement of positive outcomes."[20]

16 Such as the response of Commander Broadhurst to the Home Affairs Select Committee on 12 May 2009: "... As I said earlier on, in the vast majority of protests/demonstrations/marches that we deal with, we have organisers who come to us, they tell us what they want to do, we negotiate and then we facilitate whatever it is. Generally, they go exceedingly well ... Where we have issues are where we have nobody to talk to."

17 HMIC meeting with NPIA Uniform Operational Support Operations Branch, October 2009.

18 ACPO 2006, *Murder Investigation Manual*, Wyboston: National Policing Improvement Agency, p.242.

19 Ibid.

20 ACPO 2007, *Practice Advice on Critical Incident Management*, Wyboston: National Policing Improvement Agency, p.32.

Comment

The ACPO *Keeping the Peace* Manual offers little guidance to public order commanders on the development of an effective community engagement strategy. While good practice has developed in a number of individual forces, particularly around the use of Community Bronze officers – local officers with a remit to carry out community liaison – little mention is made of the use of IAGs or critical friends in the Keeping the Peace Manual. HMIC considers that reference to the role of IAGs and critical friends should be made in the revised ACPO *Keeping the Peace* Manual.

The Critical Incident Management Model

A critical incident is defined as "any incident where the effectiveness of the police response is likely to have a significant impact on the confidence of the victim, their family and/or the community."[21] Senior officers managing critical incidents invite independent community advisors to sit on a management group to offer advice to the police on the most appropriate response from a community perspective.

Comment

Very few public order situations are identified as potential critical incidents in the planning stages or subsequently declared critical incidents. Consideration ought to be given by public order commanders planning large scale public order operations as to whether a situation has the potential to undermine public confidence in the police response and, if so, what measures should be enacted to counter that threat.

CONCLUSION

These case studies provide useful guidance for the police on developing effective communication strategies with protesters and the wider public and more sophisticated media strategies. A number of core principles can be discerned that have clear application to public order policing.

[21] ACPO, 2007, *Practice Advice on Critical Incident Management,* Wyboston: National Policing Improvement Agency, P.32.

HMIC recommends that public order command training should be significantly enhanced to provide explicit guidance to officers on communication strategies before, during and after public order policing events which should include the following:

(a) A community engagement strategy should be prepared at the early stages of planning for a public order operation, identifying key stakeholders or influencers within the protest community, the wider community and any group(s) opposed to the protest event. Police commanders should seek the views, expectations and concerns of all key stakeholders and affected communities regarding the event and the related policing operation.

(b) No promises should be made by police officers engaging with protest communities which are unsustainable or give unfair advantage or accommodation to a particular protest group, or are contrary to law. All police engagement should accord with the standards of professional behaviour set out in the Police (Conduct) Regulations 2008, in particular, the principles of confidentiality, equality, honesty and integrity, as well as the Human Rights Act 1998.

(c) A 'no surprises' communication philosophy should be adopted: ongoing communication should be maintained with all relevant stakeholders throughout the operational planning stages and during the event itself. Protesters and the public should be made aware of likely police action in order to make informed choices and decisions.

(d) A media strategy should be developed in advance of the operation. Relevant media personnel should be invited to a briefing to ensure an accurate understanding of the police operational approach and style.

(e) A clear audit trail should be maintained of all communications with the protest community, the media and the wider public as part of the Event Policy file.

(f) Following the operation, the community engagement and media strategies – and actions and decisions taken in relation to both – should be reviewed to identify learning for future events.

CHAPTER 4

CROWD DYNAMICS AND PUBLIC ORDER POLICING

> Research and practical police experience overwhelmingly support the view that policing styles and tactics have a profound impact on the dynamics of crowds at public events.

G20 protest, Bishopsgate London 2009 - With kind permission of James Kerr

CROWD DYNAMICS AND PUBLIC ORDER POLICING

Adapting to Protest made some preliminary comments on the impact of policing styles and tactics on crowd dynamics. The discussion focused on the police tactic of containment and HMIC made a number of recommendations regarding its use.[1] As an element of this review, HMIC has expanded its consideration of crowd dynamics by exploring current scientific thinking on the management of crowds and investigating police experiences of dealing with other significant crowd events, namely managing high profile football matches. Our findings are set out below.

A. CROWD PSYCHOLOGY AND PUBLIC ORDER POLICING

In July 2009, HMIC commissioned Dr. Clifford Stott[2] to provide an overview of the literature on crowd psychology and recent developments in scientific understanding which have implications for the successful management of crowd events. His report concluded that there is compelling evidence that the most effective means of achieving proportionality in policing crowds is through a strategic focus upon facilitation and a graded, differentiated and information led approach to the use of force.

The key findings of the report are set out below:

1. 'Classic' crowd psychology is currently used in some public order training in England and Wales. The Classic theory[3] decontextualises crowd behaviour. It asserts that crowds are irrational, dangerous and open to easy exploitation by agitators and therefore implies that physical crowds are single psychological entities posing inherent dangers to public order. Given that from this perspective crowds are understood as unpredictable, volatile and dangerous, it becomes almost self evident that they need to be controlled and that this control must be exerted primarily through the use of force. This theoretical position results in police tending to see the general heterogeneous composition of crowds in terms of a simple

[1] *Adapting to Protest*, Recommendations 5-9.

[2] Senior Lecturer in Social Psychology at the School of Psychology, University of Liverpool and member of an informal team of experts on crowd psychology in partnership with Professor Stephen Reicher (University of St Andrews) and Dr John Drury (University of Sussex).

[3] The central figure in popularising this form of crowd psychology was Gustave Le Bon whose classic *Psychologie des Foules* was first published in 1895. Le Bon described the pathology of crowd psychology through three central mechanisms: submergence, contagion and suggestibility. Submergence refers to the loss of the individual identity among participants through the 'anonymity' assumed to be inherent in the crowd. Contagion refers to the uncritical social influence mechanism that subsequently emerges which allows any idea or sentiment to spread unheeded through the crowd. Suggestibility is the 'hypnotic' psychological state induced by submergence that allows contagion to occur. Le Bon proposed that through these mechanisms, behaviour within a crowd was no longer governed by individual rationality but through a 'group mind'.

dichotomy: an irrational majority and a violent minority who can easily assert influence over the crowd. However, the theory is outdated and unsustainable scientifically.

2. The Elaborated Social Identity Model of crowd behaviour is now the leading scientific theory of crowd psychology.[4] This model recognises the contextually determined nature of crowd action and defines the social psychological processes determining the positive and negative impacts that police tactics can have upon crowd dynamics.

3. There is considerable evidence of the practical benefits of a policing approach based upon principles of the Elaborated Social Identity Model. The model supports the argument that a 'graded' tactical profile that is strategically oriented toward facilitation, differentiation and communication is effective and efficient at managing crowd dynamics, promoting 'self-policing' and improving police community relationships.[5]

4. Research overwhelmingly demonstrates that the indiscriminate use of force by the police during an event can negatively impact upon crowd dynamics to increase the risk that a crowd poses to public order. Indiscriminate use of force by the police can create a sense of unity in the crowd through a common perception of the illegitimacy of police action and corresponding opposition in response. Perceptions of police legitimacy are critical because they affect the crowd's internal dynamics, facilitating or undermining the ability of those seeking conflict to exert social influence over others in the crowd. Consequently, there is an increase in the numbers within the crowd who perceive conflict against the police as acceptable or legitimate behaviour, thereby empowering those prepared to engage in physical confrontation with the police. In this way, the crowd is drawn into conflict even though the vast majority had no prior intention of engaging in disorder.

5. Evidence from international experience supports the development of a range of police tactics within the UK which enhance police capability for dynamic risk assessment, dialogue and communication.[6]

[4] It provides a theoretical basis for accurately explaining and predicting the nature of crowd behaviour, particularly as this relates to the emergence of collective 'disorder': see Reicher, S, (2001) Crowds and Social Movements. In M, Hogg and S, Tindale (eds) Blackwell Handbook of Social Psychology: Group Processes. Oxford: Blackwell.

[5] Reicher, S, Stott, C, Drury, J, Adang, O, Cronin, P, and Livingstone, A. (2007) Knowledge-Based Public Order Policing: Principles and Practice. Policing 1, 403–415; Stott, C, & Adang, O, (2009) Understanding and managing risk: policing football matches with an international dimension in the European Union. Slagelse, Denmark: Bavnebanke Press.

[6] Stott, C, J, Adang, O, M, Livingstone, A., and Schreiber, M, (2008) "Tackling Football Hooliganism: A Quantitative Study of Public Order, Policing and Crowd Psychology". Psychology Public Policy and Law. Vol 14, No 2, pp 115–141; Stott, C, J, Adang, O, M, Livingstone, A, and Schreiber, M. (2007) Variability in the collective behaviour of England fans at Euro2004: public order policing, social identity, intergroup dynamics and social change. European Journal of Social Psychology. 37, pp 75-100. Holgersson, S. (2009) Dialogue Police: Experiences, Observations and Possibilities. Stockholm: The Swedish National Police Board. Knutson, J and Holgersson, S, Dialogue policing – a means for less collective violence? in T, Madensen and J, Knutsson (eds) *Crime Prevention Studies: Preventing Collective Violence*. Monsey, NY and Cullompton, Devon, UK 2009.

B. EXPERIENCES OF POLICING LARGE SCALE FOOTBALL EVENTS

As part of HMIC's review of different areas of policing business, HMIC asked a number of senior officers across England who regularly command police operations for football matches to provide us with their views on the impact of policing styles and tactics on the management of large crowds. Each of the senior officers acknowledged that the frequency of games and familiarity with key locations set policing football matches apart from policing less well known protest groups. Their general observations are set out below.

Intelligence

Intelligence on the character of supporters attending a fixture and any possible threats associated with groups who may pose a risk in certain circumstances plays a key role in the selection of tactics and Match Commanders' decision making. The importance of strong partnerships with football clubs, local authorities and intelligence providers was also highlighted.

The knowns: police perspective

In policing football, the environment is already well known to the commander and the officers appointed to police the match are generally experienced in delivering the tactical plan on a weekly basis. The ability to test out contingencies, tactics and continuously improve the operational delivery is available on a weekly basis to commanders, a luxury not available for many other events which generally occur on a less frequent basis. Contingency and emergency plans are also rehearsed regularly by officers and relevant partners to ensure understanding and identify any issues of concern. For the majority of fixtures, local police officers are used as opposed to larger public order events where mutual aid resources are often required whose knowledge of local communities and environs is limited.

Football intelligence is updated regularly and commanders are provided with accurate information on anticipated numbers attending, modes of transport and likely flashpoints. Groups likely to pose a risk to public order and their likely behaviour at specific fixtures are also identified and from this, it is usually possible to distinguish the "risk supporters" from the genuine fans.

Reporting methods and intelligence requirements are generally consistent between police forces so the intelligence and information shared is easily understood. Officers are briefed about the difference between genuine supporters and risk groups and the policing style recognises that the majority of fans are there to enjoy the fixture.

The knowns: supporters' perspective

Information is readily available to supporters through club websites and well-established forums used by the police to explain processes and procedures to visiting fans. This includes advice on the best routes to the football

ground, ticketing information and any specific issues individual fixtures may require, for example, any intention to hold supporters for a short period within the stadium at the end of the match. Most football supporters expect and anticipate some level of inconvenience at larger fixtures and are well versed in being searched at turnstiles, checked for tickets on the approach to grounds and being directed to certain areas of the town to obtain food and drink.

Should disorder occur, it is generally confined and very rarely results in genuine supporters becoming involved through a feeling of common purpose. In general, genuine supporters are disgusted by those who choose to bring the game and their club into disrepute and consequently are often supportive of police actions and instructions.

Unknowns

Unlike public order event policing, the number of fans anticipated to attend each fixture is usually well known prior to the event (through ticket sales and previous attendance) and resources can be identified accordingly. Attendance by individuals who are intent on causing trouble away from the fixture is generally less well known, unless specific intelligence is received by the host force.

Tactics

While all the tactics identified in the ACPO Keeping the Peace Manual are available to commanders, the actual deployment of tactics at individual football grounds and their environs does not tend to utilise the full spectrum of public order tactics. The most common tactics are normal general duty policing, cordons, use of mounted police and police dog handlers, escort and containment. The majority of football operations conclude without resort to the more stringent tactics or high levels of force and many fixtures are policed solely with general duty police officers and stewards. The police tactical plan for fixtures at Wembley Stadium uses those attending football matches to segregate groups of risk supporters rather than physical barriers.

The police presence as supporters proceed to and from the football ground is generally low key, with greater visibility at key flashpoints along an identified route. Mounted officers are used to monitor the fans as they move towards or away from the stadium. On occasion, it may be necessary to more closely escort groups of supporters and containment may be used to gather together problematic supporters before they are escorted by the police to or from the football ground. Many visiting supporters expect police escorts to the football ground by way of protection.

Use of containment

In the football environment, containment is successfully used not just to manage groups who may present a risk groups but also to detain supporters for short periods in the football ground at the end of the match to segregate rival supporters as they leave. Supporters are informed that this may happen in advance of the match through club websites and leaflets sent with tickets. This information is reinforced on the day by stewards and tannoy messages. Many fans choose to remain in the stands for 10 to 15 minutes

anyway to avoid the more pressurised first stages of the emptying of the football stadium.

Containment may be used in response to potential or actual disorder before supporters are arrested or escorted to transport facilities away from the football stadium.

Distinctions between policing football events and policing protest events

In policing football matches, many of the public order tactics discussed above are deployed for short periods and only at critical moments during the police operation. The duration of football operations are well defined within a limited timeframe, providing the opportunity to plan with limited deviations from the original operation. Supporters in general are familiar with what to expect at each fixture and if they do not wish to be caught up in any trouble that develops, they will keep themselves away from the main locations of risk supporters. Supporters are aware of the standard fixture 'routine' and general mood and are quick to notice rising tensions that could lead to disorder. Nevertheless, there is recognition that the policing style and operational approach has an impact on the dynamics of the crowds of supporters.

The large number of 'knowns' facilitates police planning of an appropriate and proportionate policing operation. Prior knowledge of crowd members and likely behaviour, crowd numbers and movements, time and location is fairly unique to sporting fixtures and will be unlikely when police are planning a public order operation for a large scale protest event. Such events will often attract large numbers of people who have not protested before. With many events being one-offs at a particular location, the nature of the event is less certain and the terrain less well known to the majority of participants. Consequently, participants are also less aware of what to expect and what action the police may take.

CONCLUSION

Research and practical police experience overwhelmingly support the view that policing styles and tactics have a profound impact on the dynamics of crowds at public events. There is compelling evidence that the most effective means of maintaining peaceful and consensual relations between the police and a dynamic crowd is through:

(a) a strategic approach to policing protest which is centred upon the facilitation of peaceful behaviour within a crowd;

(b) a tactical policing response which increases police capability for dialogue and communication with crowd members; and

(c) a graded, differentiated and information led approach to police use of force.

HMIC recommends that public order command training should be significantly enhanced to provide explicit guidance to officers on understanding and managing crowd dynamics which should include the following:

(i) Prior to a crowd event, police should seek to inform themselves about the culture and general conduct of particular protest crowds. Planning for an operation should include gathering information on the underlying intent of the protest group.

(ii) The information regarding the general protest culture of the group should be considered in the local context and an assessment made as to how the policing operation can be designed to facilitate the legitimate intentions of the protesters.

(iii) Police strategy or tactics should not be oriented exclusively towards the control of the crowd through the threat or use of force but should ensure the effective facilitation of the legitimate intentions underpinning the protesters' action. This should be effectively communicated to protesters, together with an indication of what conduct will and will not be tolerated by the police.

(iv) Initial contact with the protest group at the commencement of the policing operation should be characterised by 'low impact' visibility, information gathering and monitoring. Police on the ground should engage[7] with crowd members to gather information about their intentions, demeanour, concerns and sensibilities.

(v) Depending on the nature of the risk, escalation in police deployment may be necessary. A graduated tactical approach should be characterised by firm but targeted communication of tolerance limits and some increased visibility of the police capability to use force. Critically, police should seek to communicate to those posing the risk that they are creating the potential for police action.

(vi) Any targeted intervention by police should be informed by an accurate intelligence assessment about the source of the risk or factors causing the problem and ensure that any police response accurately reflects and is proportionate to the actual level and sources of risk.

[7] Including non-aggressive postures, smiles, nods etc.

CHAPTER 5

REVIEW OF PUBLIC ORDER UNITS

> Today's policing landscape has changed and, increasingly, the threats and risks the police must deal with affect regions or even the nation as a whole. There is an expectation that police forces across the UK are able to respond jointly to regional or national emergencies and to large scale public order events.

Peace for Gaza protest, London 2009 – Attributed to Rich Lewis

REVIEW OF PUBLIC ORDER UNITS

Police services throughout the UK vary in their public order capability. A number of forces have specialist public order units. Other forces rely on public order trained officers operating across the force in a range of roles to come together as a collective public order unit when the need arises. Whichever model police forces adopt, officers must be trained in public order skills, tactics and equipment to a certain level. The first part of this chapter considers the public order capability of individual police forces across England, Wales and Northern Ireland and their respective national mobilisation capability. The second part of the chapter assesses public order training and the public order command competence of police forces across England, Wales and Northern Ireland.

A. PUBLIC ORDER CAPABILITY OF FORCES

Officers are currently trained to three levels of capability within public order policing, from non-specialist operational officers who receive basic training (Level 3) to specialist officers who receive much more focused and dedicated training (Level 1). All three levels of trained officers can be deployed in public order operations, but officers deployed to public order duties outside their home force area must be trained to at least Level 2 standard. The three levels are defined below.

Level 3

Operational officer(s) with a basic awareness of public order issues and trained in foot cordons tactics for dealing with non-violent protest in traditional uniform.[1]

Level 2

Officers who are trained to Level 3 and additionally receive training in public order tactics and are equipped and issued with full personal protective equipment.

Level 1

Officers with the highest level of public order training. These officers are trained and equipped to Level 2, and in addition receive regular refresher training. They may be trained in additional specialist tactics relevant to any perceived threat within their own force area (or under any regional agreement). Level 1 officers may be members of a full or part-time public order team, eg Tactical Support Groups, Operational Support Unit.[2]

1 and Training Manual (2004).

2 Ibid.

Public order capability

As part of its review of public order units and command capability, HMIC asked the 44 forces across England, Wales and Northern Ireland to provide it with data on:

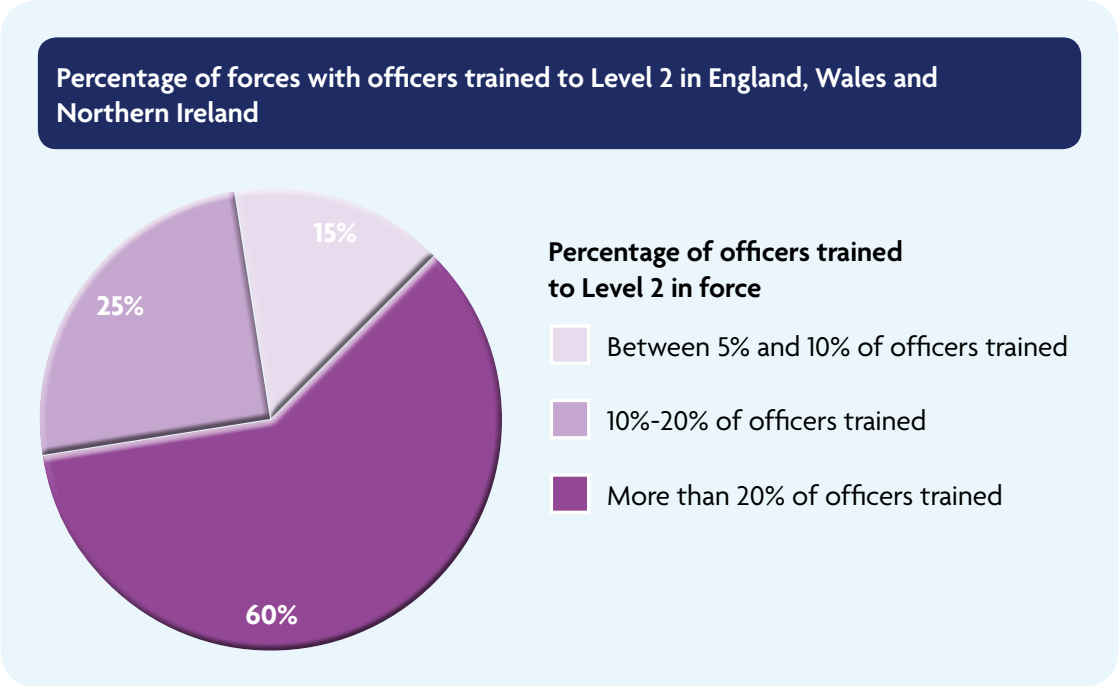
- Level 1 and Level 2 public order capability.
- The numbers of public order trained personnel and/or units.
- The numbers of senior officers APOC and IPOC trained.
- The numbers of officers accredited by virtue of grandparent rights.
- The deployment and use of public order units.

Level 2 capability

A total of 22,500 officers are trained to at least Level 2 standard nationally,[3] which is intended to provide officers with standard training in the use of public order skills, tactics and equipment. All forces have a constituent of Level 2 trained officers but with variation in numbers across forces, from 8.7% (290 officers) in the case of South Wales Police to 39% (1,584 officers) in the case of Northumbria Police. The average percentage of officers trained to Level 2 is 15.8%.

Figure 1 demonstrates the percentage variation across forces and indicates that the majority of forces have between 10% and 20% of officers trained to Level 2 standard.

Figure 1: Percentage of forces with officers trained to Level 2 in England, Wales and Northern Ireland



[3] Force responses to HMIC information request, September 2009.

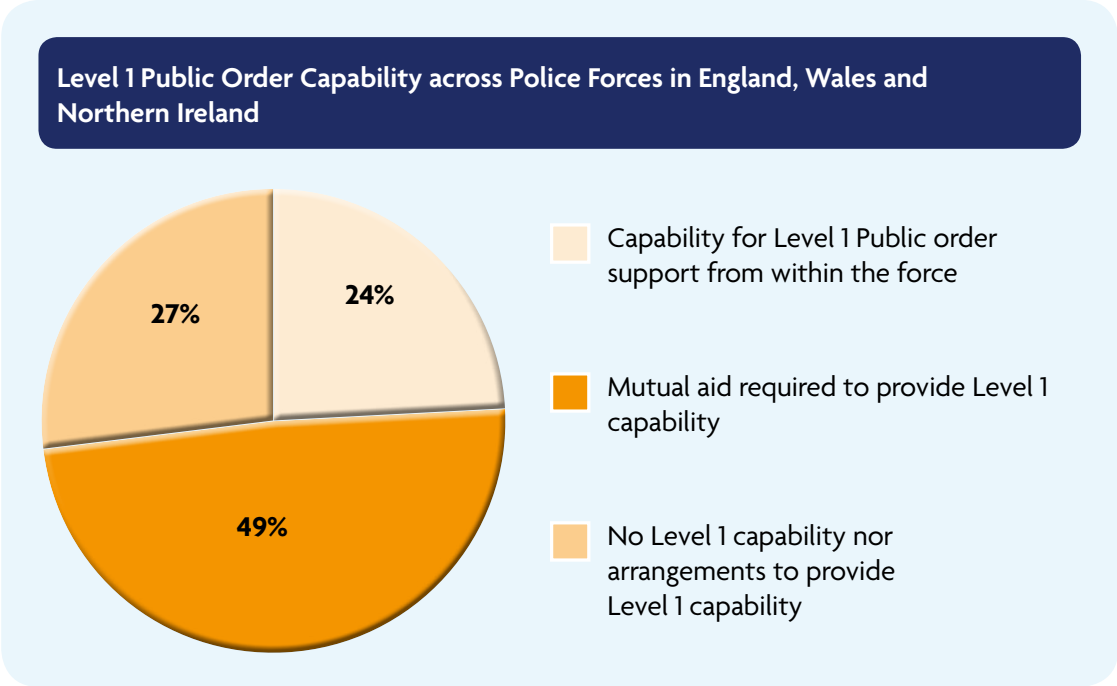
Level 1 capability

Some 19 police forces have specialist units of Level 1 trained public order officers.[4] A total of 23 forces stated they were not able to provide specialist Level 1 public order units from within their own forces, with 12 forces indicating that if specialist public order units were required, these would be sought through mutual aid.

Five forces indicated that while they had no specialist public order units, a capability existed within the force to provide Level 1 public order support by abstracting officers from core roles.[5]

Figure 2 shows Level 1 public order capability levels across all police forces in England, Wales and Northern Ireland.

Figure 2: Level 1 Public Order Capability across Police Forces in England, Wales and Northern Ireland.



4 Ibid.
5 Ibid.

National mobilisation capability

Today's policing landscape has changed and, increasingly, the threats and risks the police must deal with affect regions or even the nation as a whole. There is an expectation that police forces across the UK are able to respond jointly to regional or national emergencies or public order events. Mutual support between police forces has therefore become an important part of everyday policing. To co-ordinate mutual support between forces, chief constables have agreed a Police National Mobilisation Plan (PNMP).[6] The ACPO President may assume the role of National Police Gold Co-ordinator and is responsible for the co-ordination of all Gold Commanders. Regular testing and exercising are essential requirements of the PNMP to ensure that when forces are required to provide mutual aid, they can mobilise the police resources which they have committed in a timely and effective fashion.

Between October 2008 and January 2009, HMIC conducted a risk-based inspection of the 22 forces most likely to have recognised risks or challenges either currently (eg airports within their force area) or in the future (eg designated Olympic sites within their force area). This inspection included a review of force readiness to meet their respective mobilisation requirements under the Police National Mobilisation Plan, in particular, whether each force inspected had:

(i) public order/emergency mobilisation plans in place;

(ii) subjected their public order/emergency mobilisation plans to a consistent testing and exercising regime; and

(iii) evaluated their public order/emergency mobilisation plans following real-time operations.

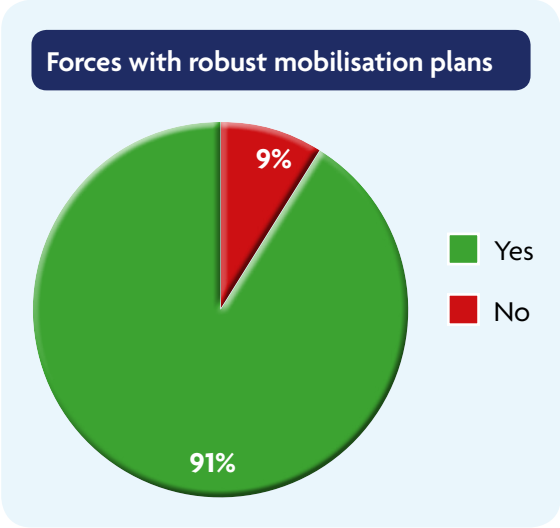
Figure 3 indicates that only a minority of the 22 forces could not assure a fully effective mobilisation if required, with 9% of forces not having robust plans to mobilise officers. However, over 41% of forces failed to test their mobilisation plans adequately in exercises and only half of the 22 forces evaluated their mobilisation plans following real-time operations.

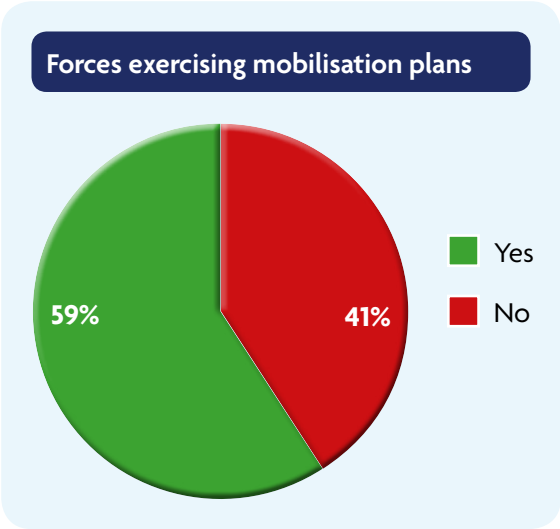
A further review of 45 forces[7] across England, Wales and Northern Ireland in September 2009 confirmed that 40% of forces continued to fail to test their mobilisation plans in planned exercises. This review also revealed that only 23 forces currently have public order included in their Force Strategic Assessment. This assessment gives an overview of the current and long-term issues affecting a force and is used to prioritise action and resources. HMIC finds it surprising that such a high number of forces do not currently include public order within their respective Force Strategic Assessments.

[6] Agreed by Chief Constable's Council, 20 July 2006.

[7] That is, the 43 Home Office Police Forces of England and Wales, the Police Service of Northern Ireland and the British Transport Police.

Figure 3: Percentage of forces able to meet mobilisation planning, exercising and evaluation requirements, December 2008.





Public order command capability

As part of this review, HMIC has considered the public order command capability (ie the numbers of trained and operationally competent public order commanders) of police forces across England, Wales and Northern Ireland. HMIC cross-referenced training data it received from individual forces against that held centrally by the National Policing Improvement Agency (NPIA) to evaluate current numbers of trained public order commanders.[8] It has become clear that there is currently no reliable picture of the number of accredited public order commanders across England, Wales and Northern Ireland. NPIA and individual force training records cannot be reconciled, with nearly half of all police forces' records of their public order capability varying by at least 25% from the records maintained by NPIA.

Table 5 compares NPIA and local force data on public order command capability of 45 forces[9] across England, Wales and Northern Ireland.

8 That is, officers trained as Bronze, Silver and Gold commanders.

9 That is, the 43 Home Office Police Forces of England and Wales, the Police Service of Northern Ireland and the British Transport Police.

Table 5: Comparison of NPIA and force data on public order command capability

Summary of Data Table Findings	Force Data	NPIA Data
Number of police forces with an accredited or trained ACPO Officer	33	16
Number of police forces with an accredited senior officer	44	42
Number of police forces that complete NPIA training	42	42
Number of police forces with at least 2 APOC + 2 IPOC accredited officers, ie able to provide an accredited command structure. (Excludes MPS, CoLP and BTP who operate to a different system).	38	35

The table demonstrates the wide divergence in local and central data. NPIA statistics indicate that only 16 forces have an accredited public order commander at chief officer rank (Assistant Chief Constable or above).[10] In contrast, local force data suggests that 33 forces have an accredited public order commander at ACPO rank. Of more concern is the fact that between 16% and 22% of forces cannot provide a minimal accredited command structure of 2 APOC[11] and 2 IPOC[12] trained commanders.

It is important that all forces consider the need for a minimal accredited public order command capacity to enable them to:

(i) make informed assessments of their local public order needs should the occasion arise; and

(ii) advise their respective police authorities appropriately.

HMIC recommends that forces should consider working on a regional or cluster basis to assess their public order requirements; ensure adequate numbers of qualified public order commanders and identify how they can use their resources more effectively.

B. PUBLIC ORDER TRAINING

The NPIA is responsible for designing national public order training programmes and accredits all public order command training programmes delivered across England, Wales and Northern Ireland.[13] This section of the report considers public order command training and training for specialist public order units.

[10] NPIA statistics indicate that only 5 forces have an accredited Chief Constable or Deputy Chief Constable.

[11] The Advanced Public Order Commanders (APOC) course trains officers to perform Gold and Silver command roles.

[12] The Initial Public Order Commanders (IPOC) course trains officers to perform the role of a Bronze commander.

[13] Greater Manchester, Merseyside, PSNI, South Yorkshire, West Midlands and West Yorkshire are all accredited by NPIA to deliver Public Order Command Training at either APOC or IPOC level. The accreditation of South Wales is imminent.

1. Public order command training

There are currently three training programmes provided to public order commanders:

1. Initial Public Order Commanders (IPOC) course: designed and licensed by the NPIA for officers who will be required to perform the role of a Bronze commander.[14]

2. Advanced Public Order Commanders (APOC) course: designed and licensed by the NPIA for officers who will be required to perform Gold[15] and Silver[16] command roles.

3. MPS Cadre Training: a course designed and offered by the MPS for officers undertaking public order command roles. The course is open to all public order commanders and is not specific to Bronze, Silver or Gold commanders. MPS, City of London and British Transport Police[17] complete MPS Cadre training.

Training for public order commanders is offered at a total of nine training centres. Following completion of IPOC, APOC and Cadre training courses, commanding officers are required to demonstrate operational competency by commanding a number of public order operations at the requisite command level. Officers are assessed and if deemed to be competent, they will become accredited commanders. In order to retain their NPIA accreditation, IPOC and APOC trained officers are required to command two public order events annually. In order to retain their MPS accreditation, Cadre Commanders are required to command three public order events annually.

Grandparent rights

When Centrex[18] introduced the IPOC and APOC courses in 2007, a system was put in place to allow officers already performing public order command roles (and deemed competent under the previous system) to become accredited without the need to complete the new IPOC and APOC courses. Officers were required to provide evidence of their previous competence to a senior officer (usually ACC Operations) within their own force. Provided the evidence met the criteria set out by ACPO Public Order, the force would sign off the officer as operationally competent to perform the role. Officers who have undergone this process are deemed to be APOC or IPOC accredited by virtue of 'grandparent rights'.

[14] The Bronze commander is responsible for implementing the Silver tactical plan by using appropriate tactics within a geographical or functional area of responsibility.

[15] The Gold commander has overall responsibility for the public order policing operation, setting strategy and ensuring sufficient resources to manage and resolve the event or incident.

[16] The Silver commander has responsibility for devising a tactical plan to achieve the operational strategy set by Gold.

[17] Only selected BTP commanders complete the MPS Cadre training course.

[18] The Central Police Training and Development Authority (Centrex) was created as a non-departmental public body on 1 April 2002 under Part Four of the Criminal Justice and Police Act 2001. Centrex was abolished on 1 April 2007 and replaced by the National Policing Improvement Agency (NPIA) which was established under s.1 of the Police and Justice Act 2006.

2. Standard public order training

Mutual support for the purpose of public order policing requires all forces to train a certain number of officers to meet Level 2 public order capability. Level 2 public order training is intended to provide a common minimum standard in the use of both public order techniques[19] and equipment for all officers deployed in public order operations across England, Wales and Northern Ireland. The training is intended to allow officers to work alongside colleagues from other police forces, responding to a core set of commands in an identical manner. Some 22,500 officers across England, Wales and Northern Ireland are trained to at least Level 2 standard.

The common standards are contained within the ACPO *Manual of Guidance for Public Order Standards, Tactics and Training* (2004). The manual indicates that Level 2 standard public order officers should be trained and competent in 17 tactics, ranging from forming a static line of officers carrying shields (a 'shield cordon') through to responding to an attack by petrol bombs. Although the ACPO manual is intended to provide a common national standard, Level 2 public order training courses are designed and delivered by individual forces to their officers. Twenty-five police training centres across England, Wales and Northern Ireland currently offer Level 1 and Level 2 public order training.[20] As a result of individual force discretion, Level 2 public order training courses vary both in duration and content.

HMIC has collected data on 11 public order training centres[21] which together provide 22 forces (about half of all forces) with Level 2 public order training. The 22 forces aim to cover the majority of the 17 tactics identified in the 2004 ACPO manual within a four day training period. Different forces allocate varying numbers of training days annually: currently, 12 of the 22 forces complete four days training each year (usually divided into two blocks of two days); 9 forces complete three days training each year and one force completes only two days training each year (with the syllabus varying each year to cover the range of tactics).[22] Training on tactics is also variable at point of delivery, as evidenced by training on shield tactics: 19 forces train with intermediate and round shields; 2 forces train with long shields and round shields and one force trains with all three shield types.[23] Personal protection uniform provided to officers also differs across forces. There is also currently no common standard for public order personal protection uniform across forces.[24]

[19] Officers will be trained in basic Level 2 Tactics, which include shield cordons; free running lines (including attack from the rear; tactical withdrawal and recovery of injured officer); mixed shield dispersal units; junctions; deployment from vehicles; enclosed space tactics; building and room entry; building/corridor and petrol bombs.

[20] Of these 25, six centres train more than once force, although 36 forces have indicated to HMIC that they participate in joint training exercises: force responses to HMIC Part 2 information request, September 2009.

[21] Merseyside, Northern Ireland, South Wales, South Yorkshire, West Yorkshire, West Midlands, Greater Manchester, Durham, Kent, Sussex and Cheshire.

[22] Training centre responses to HMIC information request, October 2009.

[23] Ibid.

[24] The NPIA and MPS are leading a joint project with the aim of agreeing a common specification for public order body armour. To date, no consensus has been reached. There are currently two separate procurement processes for the purchase of body armour, with 21 forces supporting one process and 13 forces supporting the other. Ten forces have opted not to join either process: Information provided to HMIC by NPIA, November 2009.

Bronze commanders have raised concerns with HMIC that the tactics contained in the 2004 *Manual of Guidance* are outdated and aimed at dealing with urban disorder only.[25] A number of forces stated that several tactics were no longer appropriate or were of limited value. This has resulted in tactics being adapted by individual forces to cater for their particular requirements.[26] It is of particular concern to HMIC that shield tactics have evolved on an informal word-of-mouth basis with the result that some forces now train officers in defensive and offensive shield tactics (including the use of the edge of a shield against individuals) which are not nationally recognised and clearly involve the use of high levels of force by officers.[27] This is not acceptable.

The effect of this variable training was noted during the policing of the G20 protests, where the use of shields, tactics of vehicle convoy movements and words of command were recorded as inconsistent across the forces deployed on mutual aid during the formal debrief.[28] Inconsistency was also highlighted in the external reviews of the Kingsnorth public order operation in 2008 (see Chapter 2). Officers were deployed from 26 forces for this operation. Inconsistencies were recorded around words of command, use of tactics and range of equipment and officers' knowledge of relevant legislation. The NPIA debrief noted that public order tactics and roles need to be standardised, with apparent numerous interpretations of tactics causing confusion.[29]

It is critical that the tactics and standards included in the training manual are suitable for the current range of public order operations in which officers are deployed. The current manual was written in 2004 and has not been revised since that time. ACPO has recognised the need for revision of the manual and this is currently underway. The revised manual is due to be completed by April 2010.[30] The length of time before completion of the revised training manual demonstrates the difficulty of reaching consensus on common standards, tactics and techniques in the field of public order.

The approach adopted within public order training can be contrasted with officer safety training (OST). In both areas there is a manual of guidance outlining a common set of skills. Within OST there is also a manual of guidance on how these skills should be trained. This includes the instruction that "Forces must ensure that only techniques contained within the ACPO Personal Safety Manual are taught to force personnel."[31]

It is apparent that police forces themselves are aware of this lack of commonality in public order policing and the potentially negative impact this can

25 HMIC focus groups with public order Bronze commanders, September 2009.

26 Ibid.

27 ACPO Public Order and Public Safety working group, October 2009.

28 As evidenced by MPS internal debriefing of commanders following the protests.

29 NPIA Debrief, October 2008, p.16.

30 HMIC meeting with NPIA, October 2009.

31 NPIA. Guidance on Personal Safety Training, 2009, p.6.

have on the effectiveness of a policing operation. For example, in advance of the Climate Camp in London in August 2009, the MPS took the decision to require forces providing mutual aid to complete a pre-event training day[32] to ensure that all officers deployed responded to operational commands in a uniform manner. This pre-event training day cost the MPS an estimated £84,000.[33] It again highlighted a number of critical differences in the approaches of forces to public order policing, including:[34]

- **Public order equipment:** different types of public order batons and shields were selected and used by individual forces.
- **Tactical familiarity:** forces were not trained in some tactics or deployed a different sequence of actions to complete the same tactical manoeuvre.
- **Authority levels:** different authority levels for implementing tactical manoeuvres, for example the deployment of batons as a 'show of strength'.
- **Words of command:** variations in terminology and the naming of tactics.

While there is obvious merit in forces providing training to officers tailored to their local requirements, this should not be at the expense of establishing a common minimum level of training which ensures standard training in core public order skills, tactics and equipment. There is also a clear economic imperative, as the MPS experience discussed above demonstrates. This is the only way to ensure that forces are able to provide effective and coherent mutual support to one another. This is of particular importance in the run-up to the Olympics, where there will be a requirement for forces throughout the UK to provide mutual support and assistance to each other. Operational planning teams should be able to request officers from other forces, confident in the knowledge that those who are deployed will have been trained in a common set of skills. Equally, Commanders should be confident that all officers deployed will respond to operational commands in a uniform manner.

3. Training for specialist public order units

Some 19 forces have indicated to HMIC that they have specialist public order units trained to Level 1.[35] These units are also trained in a number of other core functions, such as chemical, biological, radiological and nuclear response (CBRN), premises entry and search. In addition to these core functions, the units are trained in other specialist functions such as victim recovery, evidence gathering, marine patrol and major investigation support, depending on local force priorities and need.

[32] The training event was organised by the MPS for four forces providing mutual aid for the policing operation relating to the Climate Camp at Blackheath, London in August 2009.

[33] Information provided to HMIC by MPS Public Order and Operational Support, November 2009.

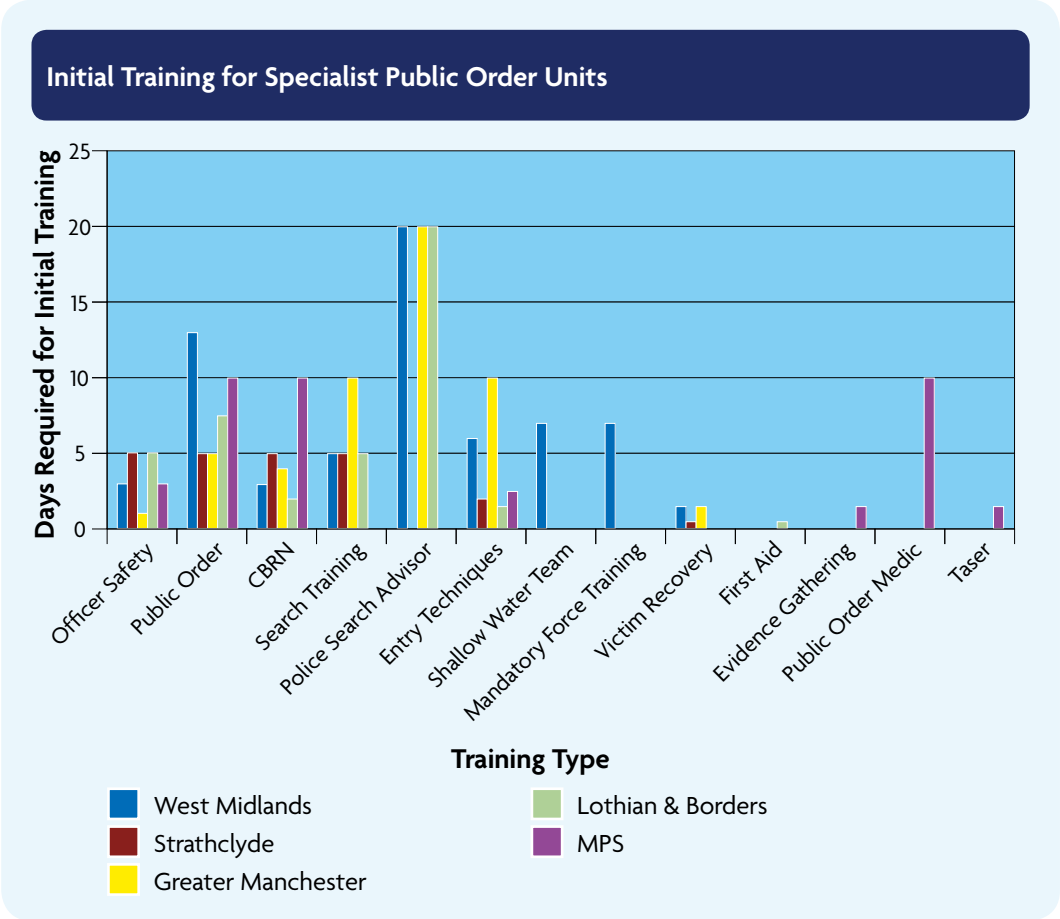
[34] Information provided to HMIC by MPS Public Order and Operational Support, November 2009.

[35] Force responses to HMIC Information Request, September 2009.

During the course of this review, HMIC visited five forces across the UK to conduct a comparative review of the training and deployment of specialist public order units. The forces visited were Greater Manchester Police, Lothian and Borders Police, Metropolitan Police Service, Strathclyde Police and West Midlands Police. The additional functions performed by the public order units vary from force to force.

Specialist Level 1 public order units are required to complete both initial and refresher training. The number of days dedicated by forces to both initial and refresher training for specialist public order units varies greatly. By way of example, the following graph illustrates the total number of days spent on initial training by each of the five forces visited by HMIC. The number of days ranges from between 23 and 65 days. While this can be partly explained because specialist training is provided according to local priority or need, it still represents a significant variation in training across the forces. Refresher training is required for a number of the functions undertaken by specialist public order units. Public order refresher training accounts for the greatest number of annual training days. Again, the number of refresher training days spent varies across the five forces visited, from two to 10 days per year.

Figure 4: Initial Training for Specialist Public Order Units



Summary of HMIC Findings on Public Order Training

A number of themes emerge from HMIC's analysis of standard (Level 2) public order training, specialist (Level 1) public order training and public order command training:

- Officers who have not completed nationally accredited public order command training regularly command public order operations, including protests.
- Limited reference to public order legislation, police powers and integration of human rights principles in all public order training programmes.
- Limited discussion in all public order training programmes of the use of force and, in particular, no reference in public order command training to the link between command decisions and the (individual) use of force by officers in the collective public order operational environment.
- Significant variation in number of training days allocated by forces to standard and specialist public order training.
- Variation in standard and specialist public order training on words of command, tactics and use of public order equipment, such as shields.
- A concentration in standard public order training on dealing with serious urban disorder.
- Lack of reference in standard public order training to communication and/or negotiation as a primary tactical option before consideration of any use of force.
- Lack of reference in public order command training to the importance of communication and/or negotiation with relevant groups (eg protest groups) at the planning stage of an operation and limited consideration of the impact of police behaviour and tactics on crowd dynamics.

ACPO revision of public order training

The ACPO Public Order and Public Safety working group has commissioned the NPIA to complete the following:

(i) Revise the ACPO Manual of Guidance on public order.

(ii) Design new public order command training to include Bronze, Silver and Gold command courses.

(iii) Establish a new national Police Public Order Training Curriculum.

(iv) Design a new national Public Order Advisor course.[36]

(v) Design a new national Police Support Unit Commanders course.

The new Manual of Guidance and training programmes is due to be finalised and delivered in Spring 2010.[37] The new national Police Public Order Training Curriculum will replace the 2004 ACPO

[36] Previously the Public Order Tactical Advisors' Course.

[37] NPIA Discussion Paper prepared for ACPO Public Order and Public Safety, September 2009.

Manual of Guidance on Public Order Standards, Tactics and Training. This, together with the new public order command courses at Bronze, Silver and Gold level and Public Order Advisor course, will set national standards of competence for officers. The Bronze command course was piloted in October 2009 and the Silver command course is due to be piloted in December 2009. Work on the Gold command course has yet to commence. The NPIA has arranged a 'Training the Trainers' course for January 2010, which will include training on human rights and public order legislation.

CONCLUSION

There is already a significant cost implication for public order training. HMIC considers that the police do not need more public order training but rather, the training provided needs to be smarter – more directed, more focused and more relevant to the current public order challenges facing the police. As elsewhere in policing, consideration should be given to anchoring public order training on a risk-based approach of the likely (as opposed to possible) spectrum of public order events in which officers will be deployed and the constituent parts of standard, specialist and command public order training should be reviewed in light of these assessed risks. Such strategic risk assessments are accepted practice in other areas where the use of force is explicit, such as firearms training. Time spent on suppressing mass urban disorder should be reduced and time spent on planning and keeping the peace enhanced. While dealing with mass urban disorder is one possible scenario, it is only one. Apart from this ultimate expression of disorder, there is a spectrum of activities which public order officers must be equipped to deal with, including:

- Mass peaceful protest.
- Protest and counter-protest in contested space.
- Sporadic, disruptive activities with low levels of criminal damage.
- Running disorder: looting and criminal damage to property.
- Small determined group attacks on iconic sites such as statues.
- Attempted mass trespass of private land housing critical national infrastructure, such as power stations.

Dealing with this range of activities is part of the continuum of keeping the peace and training should be informed by common principles and rules of engagement which are sensitive to the circumstances in which officers are operating. It should also make appropriate provision for the safety of individual officers and the safety of the wider public. A clear and definitive link needs to be made between officer safety training and all levels of public order training so that officers are well versed in the minimum use of force and necessity

principles and the continuum of the use of force model. Consideration must also be given in officer safety training to the use of force by individual officers in collective public order operations with volatile crowds.

It is disquieting that such a modest amount of time is devoted in public order training to the complex legal landscape. It is hard to overestimate the important of officers' understanding of the law when each individual police officer is legally accountable for the exercise of his or her police powers, especially the use of force. Whatever balance public order commanders strike between the competing rights and interests of different groups, the cornerstone is that chief officers are accountable to the law.

HMIC considers that it is critical for all public order training (standard, specialist and command level) to provide officers with a clear understanding of the use of police powers and the use of force and its application to standard public order tactics. It should focus on those tactics involving higher level uses of force, such as use of shields, batons and dispersal tactics. In addition, specialist Level 1 public order trained officers (as the most likely officers to be deployed when serious violence or disorder occurs) must be trained to deal with this level of disorder in a controlled and proportionate manner, while fully recognising the threat of harm they and their colleagues face in these circumstances.

HMIC recommends that ACPO and NPIA work together to identify how best to achieve consistency of content and accreditation of public order training programmes across the police service.

The following elements are important considerations to include in the public order training curriculum to achieve a consistent approach to police action:

(a) Explicit training on the public order legal framework, including:

- (i) The starting point of facilitating peaceful protest.
- (ii) Police public order powers.
- (iii) Human rights obligations of the police

(b) Integrated training on the use of force, including:

- (i) Legal tests for the use of force (reasonableness; absolute necessity).
- (ii) Principles of necessity and minimum level of force.
- (iii) Continuum of the use of force model.
- (iv) Individual uses of force in a collective policing environment.

(c) A clear and definitive link between officer safety training and all levels of public order training (generalist, specialist and command) so that officers are well-versed in the minimum use of force and necessity principles and the continuum of the use of force model.

(d) Comprehensive scenario and contingency planning: public order commanders must be competent to routinely identify and assess a range of possible operational scenarios and manage a variety of outcomes.

(e) Consideration of the relationship between crowd dynamics and police action and tactics, and the complexity of crowd membership and development of a more discriminating approach to crowd management: dealing with individuals rather than an homogeneous mass.

(f) Consideration of appropriate and proportionate police tactics and levels of force in relation to a range of scenarios, for example:

(i) Mass peaceful protest on a national basis, eg a Climate Camp.

(ii) Protest and counter-protest in contested space.

(iii) Sporadic, disruptive activities with low levels of criminal damage.

(iv) Running disorder: looting and criminal damage to property.

(v) Small determined group attacks on iconic sites such as statues.

(vi) Attempted mass trespass of private land housing critical national infrastructure, such as power stations.

(vii) Protests resulting in serious violent disorder.

CHAPTER 6

PUBLIC ORDER AND THE USE OF FORCE

> The proper regulation and use of force by the police is central to securing public support for – and public confidence in – public order policing. The police service should adopt a set of fundamental principles on the use of force which run as a golden thread through *all* aspects of police business.

Anti G8 protest, Warnemünde, Germany 2007 - Attributed Philippe Leroyer

PUBLIC ORDER AND THE USE OF FORCE

The use of force by police officers raises fundamental human rights issues. Allegations of improper or excessive use of force by the police undermines the legitimacy of police action and reduces public confidence in the police. It is critical that all police officers are absolutely clear about the circumstances in which they can use force and the legal thresholds that must be met before they use any level of force. In light of the findings of *Adapting to Protest*, as part of this review HMIC has critically reviewed the guidance and training provided to public order officers on the use of force.

Police use of force

The police have the authority to use force in specified circumstances. Two of the nine principles attributed to Sir Robert Peel address the use of force. The first makes the fundamental statement that "the degree of co-operation of the public that can be secured diminishes proportionately to the necessity of the use of physical force". The second states that "police use physical force to the extent necessary to secure observance of the law or to restore order *only when the exercise of persuasion, advice, and warning is found to be insufficient*"[1] (emphasis added).

The use of force by police officers raises fundamental issues for us all. Allegations of improper or excessive use of force by the police undermine the legitimacy of police action and reduces public confidence in the police. It is critical that all police officers are absolutely clear about the circumstances in which they can use force and the legal thresholds that must be met before they use any level of force. However, the rights of police officers also have to be considered. While it is their duty to police protests according to the law, police officers have the right to be protected from the risk of injury and, in extreme cases, death when disorder or violence breaks out.[2] That requires very careful planning and execution of policing operations. It also justifies the use of force by police officers in certain, clearly defined, circumstances.

A. FINDINGS OF HMIC ADAPTING TO PROTEST

Adapting to Protest highlighted inconsistencies and inadequacies regarding training and guidance on the use of force in the public order context and emphasised the following points:

1. The importance of recognising how tactics and the physical deployment of officers send out a series of signals and visual messages to protesters and impact upon crowd dynamics.

[1] From the *Nine Principles of Good Policing* attributed to Sir Robert Peel.

[2] ECHR Articles 2 and 8.

2. The distinction between decision-making on the use of force at the command (and collective) level and the individual level.

3. The link between command decision-making and the use of force. The report concluded that in addition to considering the proportionality of the collective use of force, public order commanders must also take into account the foreseeable use of force by individual officers to ensure that any use of force is necessary and proportionate.

4. The lack of training on the use of force in Metropolitan Police Service (MPS) public order training programmes, recording that while MPS officer safety training gave "unambiguous instruction" on the use of force, this was not replicated within public order training.

In summary, *Adapting to Protest* concluded that there was a lack of clarity around the approach to, and corporate oversight of, the use of force in public order policing. Recommendation 10 of *Adapting to Protest* therefore advocated a review of public order training that addressed the full spectrum of public order activity and incorporated relevant human rights principles and standards on the use of force.

Following the G20 protests, the Independent Police Complaints Commission (IPCC) received 283 complaints, 136 of which alleged the use of excessive force by the police. One of the complaints was from a 23 year-old woman who had attended the Climate Camp at Bishopsgate in the City of London on 1 April 2009. Her complaint was that during her time in the Climate Camp, she was kicked and struck with shields and batons without warning. She stated that this left her with bruising on her legs and arms and later, some heavy vaginal bleeding which lasted throughout the night. The complainant was subsequently informed by her GP that the bleeding could have been a miscarriage, although this was never confirmed.[3] The IPCC decided to investigate the complaint because of the serious nature of the alleged possible miscarriage.[4] During the course of the IPCC investigation, the complainant clarified that her complaint was about the tactics used by, and the behaviour of, the MPS as a whole rather than any individual officer. The IPCC concluded its investigation and issued a report in August 2009[5] which suggested that the complainant's experience should be used to inform this review.

The IPCC report reinforced the recommendations made by HMIC in *Adapting to Protest*, in particular, the recommendation that ACPO and the MPS undertake a review of public order training including an examination of tactics such as the use of shields and batons.[6]

[3] Independent Police Complaints Commission, *Commissioner's report following the IPCC independent investigation into a complaint that officers used excessive force against a woman during the G20 protests*, 6 August 2009, p.2.

[4] Ibid.

[5] Ibid.

[6] Recommendation 10, *Adapting to Protest*.

The use of public order equipment, such as batons and shields, can result in significant levels of force being used against individuals by the police and raises human rights issues under ECHR Article 2 (right to life), ECHR Article 3 (prohibition against torture, inhuman or degrading treatment) and ECHR Article 8 (right to respect for private life which includes right to bodily integrity). The legal framework for the police use of force is set out in Appendix 3. In light of the findings of *Adapting to Protest* and the IPCC conclusions following its independent investigation, we turn now to a critical scrutiny of the guidance and training provided to public order officers on the use of force.

B. NATIONAL PUBLIC ORDER TRAINING AND THE USE OF FORCE

National public order guidance manuals and the use of force

Currently, the two national manuals of guidance for public order policing are the ACPO *Manual of Guidance on Keeping the Peace* (2007) and the ACPO *Manual of Guidance on Public Order Standards, Tactics and Training* (2004). Together these documents provide strategic, tactical and operational guidance to commanders, trainers and frontline officers on the use of public order tactics. HMIC has reviewed both of these manuals to assess the guidance provided on the use of force.

The guidance contained within Keeping the Peace references the common law, section 117 of the Police and Criminal Evidence Act 1984 and section 3 of the Criminal Law Act 1967. There is a separate section dealing with the legal obligations under the European Convention on Human Rights but this section does not refer to the use of force except to state that it must be proportionate, legal, accountable and necessary. The *Public Order Standards, Tactics and Training Manual* does not contain a specific section on the legal framework for the use of force. There is no dedicated discussion regarding relevant legislation or the legal implications of the public order techniques included. For example, there is no mention of use of force or proportionality considerations for shield tactics relating to the dispersal of crowds by officers. A small number of the techniques contained in the manual make some reference to the use of force, but these are sparse and lack detail.[7] While the manual is designed to provide practical guidance on the public order techniques included, the lack of guidance on levels of force and threshold tests that must be met before force is used carries the risk that officers may use excessive and unlawful levels of force.

This approach can be starkly contrasted with the approach of the firearms manual which makes a clear distinction between having the legal authority to use force and the need to use force. The manual emphasises the need to ensure that the minimum amount of force is used in any

[7] For example the entire reference to use of force for a running shield line is "Suitable consideration should be given to individuals' Human Rights (in particular Articles 8 and 11)."

particular circumstance and clearly explains the legal requirements for the use of lethal or potentially lethal force. The guidance explicitly underlines the need for a graduated approach to any use of force.

Public order training and the use of force

There are currently 25 training centres throughout England, Wales and Northern Ireland which provide public order training. 19 of these centres provide training to a single force. A total of 8 of the 25 training centres also provide standard, specialist and command public order training. HMIC has conducted a preliminary assessment of the use of force training delivered by the 8 centres[8] as part of their specialist (Level 1)[9] and standard (Level 2)[10] public order training, public order command training and officer safety training. The Metropolitan Police Service training at Gravesend was reviewed during Adapting to Protest. During this review, we considered the remaining 7 training centres. HMIC requested that each centre provide copies of all lesson plans for Level 1 and 2 public order training, public order command training (IPOC and APOC) and officer safety training specifically dealing with the use of force. HMIC received a total of 27 lesson plans and 11 other training documents. HMIC has reviewed these lesson plans and training documents to obtain an indication of the extent to which use of force is adequately integrated into public order training.[11]

While HMIC recognises that lesson plans cannot convey the full content of a particular lesson or training course, they do demonstrate the core priorities which will be addressed. Our findings are set out below.

Merseyside Police provided their officer safety lesson plan on the use of force and accompanying presentations, a knowledge check for officer safety students and a lesson plan for deployment of officers from vehicles. The officer safety lesson plan for use of force explains s.3 of the Criminal Law Act 1967 and s.117 of the Police and Criminal Evidence Act 1984 (PACE). The presentations explain these powers and instruct officers that any use of force must be proportionate, lawful, accountable and necessary (these are each defined). The knowledge check includes a question requiring officers to identify four pieces of legislation that justify the use of force. The lesson plan for deployment of officers from vehicles does not mention the use of force.

The Police Service of Northern Ireland (PSNI) provided two presentations on the use of force, as well as a lesson plan for standard public order training and a document setting out the assessment process for officer safety training on limb restraints. The presentation which introduces specialist (Level 1) public order training outlines the PSNI service policy on the use of force and identifies s.3 of the Criminal Law Act 1967, s.88 of the Police and Criminal Evidence (Northern Ireland) Order, common law and s.114(2) of

8 Metropolitan Police Service, Merseyside Police, Police Service of Northern Ireland, South Wales Police, South Yorkshire Police, West Yorkshire Police, West Midlands Police and Greater Manchester Police.

9 Defined in Chapter 5.

10 Ibid.

11 Reviewing public order training programme outlines and lesson plans.

the Terrorism Act 2000. The PSNI service policy states that "police officers may use force in order to defend themselves or another, effect an arrest, carry out a lawful power, secure and preserve evidence or uphold the peace provided such force is lawful, proportionate and reasonable in the circumstances." The policy also states that "the use of potentially lethal force should be absolutely necessary". The presentation from the officer safety programme deals with the use of force and underpinning principles for the use of force, referencing the same legislation as set out above. Each student attending the officer safety programme is required to complete a role play and assessed on whether his or her response is proportionate, reasonable and necessary. The lesson plan for standard public order training again identifies s.3 of the Criminal Law Act 1967, s.88 of the Police and Criminal Evidence (Northern Ireland) Order, common law and s.114(2) of the Terrorism Act 2000 but does not explain them further. The lesson plan also references ECHR Articles 2, 3, 5, 8, 9, 10 and 11 and emphasises that any use of force must be lawful, proportionate, accountable and stand up to scrutiny.

South Wales Police provided HMIC with four documents, including a 2007 debrief of training which highlighted that officers were not, on occasions, aware of their legal powers. None of the documents provided referred to the use of force or police public order powers.

South Yorkshire provided five lesson plans on the use of force. Four lesson plans were provided from their officer safety programme. The first dealt with legislation authorising the use of force by police officers and explains s.3 of the Criminal Law Act 1967 and s.117 of PACE. The lesson plan outlines a group exercise asking students to define reasonable, proportionate, necessary and lawful. However, the definition of proportionate provided for trainers is limited. The use of force lesson plan for standard public order training identifies common law, s.3 of the Criminal Law Act 1967 and s.117 of PACE as authorising police use of force. The lesson plan indicates that officers will be presented with an operational scenario and required to justify their use of force. Trainers are prompted to emphasise that any use of force must be proportionate, lawful, accountable and necessary.

West Yorkshire Police provided HMIC with four lesson plans which dealt with marching cordons, dealing with violent or deranged persons, use of force and officer safety training and finally, the use of taser with shields. The lesson plan for marching cordons refers to s.3 of the Criminal Law Act 1967, s.117 of PACE and common law. It explicitly states that officers must be able to justify the use of force and correctly identifies that the use of force must be the minimum necessary to achieve a legitimate aim. The lesson plan dealing with violent or deranged persons refers to the same legislation and includes reference to ECHR Articles 2, 3 and 5. The lesson plan dealing with the use of tasers with shields when dealing with violent or deranged persons contains comprehensive notes on s.3 of the Criminal Law Act 1967, s.117 of PACE and common law powers on the use of force, which are supported by case law examples. ECHR Articles 2, 3, 7 and 8 are also explained in some detail.

West Midlands Police submitted eight lesson plans, one from officer safety training (dealing with baton skills) and seven from Level 1 and 2 public order training. The public order training lessons relate to running lines, foot cordons, mixed shield dispersal, emotionally deranged persons, deployment from vans and advancing up stairs. All lesson plans refer to the Human Rights Act 1998, s.3 of the Criminal Law Act 1967, common law and s.117 of PACE.

Greater Manchester Police (GMP) provided nine documents. A lesson plan from the officer safety training (OST) programme on the use of force included a facilitated discussion on s.3 of the Criminal Law Act 1967, s.117 of PACE and common law powers to use force. Another lesson plan from the programme dealing with abusive and aggressive behaviour indicated a group discussion of the powers contained within the common law, s.3 of the Criminal Law Act 1967, PACE, human rights and s.174 of the Licensing Act 1968. An OST PowerPoint presentation outlines case law relating to self defence, s.3 of the Criminal Law Act 1967, and s.117 of PACE. Two lesson plans were provided from the officer safety refresher course. One of the lesson plans requires trainers to discuss the law on the use of force. Two lesson plans were provided from the Level 1 public order course dealing with (i) violent persons and (ii) running lines. Neither of these lesson plans made any reference to the use of force or human rights. GMP also provided an APOC distance learning workbook devised by NPIA which references s.3 of the Criminal Law Act 1967 and s.117 of PACE. GMP also provided a copy of their public order legislation and warnings booklet. It lists public order powers and offences but does not include reference to the use of force.

Evaluation

HMIC's review of the lesson plans and related materials indicates a variable approach across police training centres to training on the use of force within public order training programmes. The majority of lesson plans examined correctly identified the common law, section 3 of the Criminal Law Act 1967 and section 117 of PACE as the primary legal authorities for police use of force, but with little further explanation. However, only the PSNI lesson plan included reference to the absolute necessity test (ECHR Article 2) for the use of lethal and potentially lethal force. Few of the lesson plans referenced the Human Rights Act 1998, although many did emphasise the need for police use of force to be proportionate, lawful, accountable and necessary. However, explanations of 'proportionate' varied. It is disappointing that only one lesson plan correctly stated that proportionate meant "the minimum [force] necessary to achieve the legitimate aim". The only lesson plan which explained in any detail the law on the police use of force was the West Yorkshire Police lesson plan on the use of taser with shields. This may be explained because use of taser is categorised as a less lethal firearms tactic. This fits with HMIC's previous assessment that a much clearer focus on legal thresholds and the rules of engagement for the use of force is provided in police firearms training. Many of the training centres justify the

lack of reference to use of force in public order training programmes on the ground that the use of force is included within the officer safety training programme. This is not adequate and needs to be addressed.

In addition to its review of lesson plans on the use of force, HMIC spoke with trainers from the eight training centres regarding the use of force training included in the APOC and IPOC public order command courses. Trainers indicated that there was no specific discussion, lesson or task on the use of force in these command courses. Trainers suggested that as training on the use of force formed part of the officer safety training programme, knowledge of the relevant legislation was assumed and therefore not specifically taught on the public order command programmes. The NPIA is responsible for designing national public order training programmes and provides training materials, including lesson plans and presentations, for all APOC and IPOC courses to accredited training centres across England, Wales and Northern Ireland.[12] NPIA has informed HMIC that while there is no specific use of force component in the training, there is an expectation that the use of force will be covered throughout the programme.

As already noted, the NPIA does not provide standard (Level 2) or specialist (Level 1) public order training, but is responsible for designing and accrediting national public order command training. NPIA has provided HMIC with the training materials for its new Bronze public order training programme which is currently being piloted. This course will replace the current NPIA IPOC course. The materials reviewed by HMIC include the trainers' guidance manual for the new course, the distance learning workbook, the lesson plan on human rights[13] and the training exercise on public order legislation.

The new Bronze course was piloted in Merseyside between 5 and 9 October 2009. HMIC observed the first two days of the pilot. It was attended by officers from MPS, Northumbria, Cambridgeshire, Wiltshire, Merseyside and Lincolnshire. Trainers did not appear comfortable teaching the human rights element of the course and were not able to clarify a number of issues raised by delegates. Discussion of public order legislation and police powers was by way of a scenario exercise, with officers required to list the legislation they would consider. During the debriefing exercise, it was apparent that officers were not familiar with the legislation and were unable to explain the application of particular powers they identified. There was also confusion regarding the different police powers and duties relating to public/private spaces. Finally, despite the lesson plans indicating references to police use of force, the legal tests for the use of force, including lethal or potentially lethal force, were not discussed. HMIC has referred its comments to the NPIA trainers who have agreed to address these points.

[12] Greater Manchester, Merseyside, PSNI, South Yorkshire, West Midlands and West Yorkshire are all accredited by NPIA to deliver Public Order Command Training at either APOC or IPOC level. The accreditation of South Wales is imminent.

CONCLUSION

The proper regulation and use of force by the police is central to maintaining the legitimacy of police action and securing public support for – and public confidence in – public order policing. The principles of necessity and minimum use of force must be properly understood by all officers and fully integrated into all public order operations. Yet it appears that the majority of public order training courses assume officers have a clear understanding of the law on the use of force and the application of the use of force in the public order context. This is not adequate. But this is not unique to public order policing. As part of our review, we have looked at national manuals of guidance in a range of policing business areas. There is no consistent doctrine articulating the core principles around the police use of force. For this reason, HMIC considers that the police service should adopt a set of fundamental principles on the use of force which run as a golden thread though all aspects of police business. This golden thread must be visible, clearly understood and sufficiently specific for those charged with the responsibility for using force to understand not only their individual responsibility but, in the public order context, the importance of the collective environment in which force is being used.

[13] This is in contrast to the current IPOC trainers' guide which makes no reference to human rights.

HMIC makes the following recommendations on the police use of force.

A. Principles on the use of force

The Home Office, ACPO and the NPIA should adopt an overarching set of fundamental principles on the use of force which inform all areas of policing business and is fully integrated into all policing codes of practice, policy documents, guidance manuals and training programmes. These principles or framework mechanism should provide the touchstone for all police officers throughout their careers. HMIC suggests this process incorporate the following principles which reflect the law as it currently stands:

(i) Police officers, in carrying out their duties shall as far as possible apply non-violent methods before resorting to any use of force.

(ii) Police officers should use force only when strictly necessary and where other means remain ineffective or have no realistic chance of achieving the lawful objective.

(iii) Any use of force by police officers should be the minimum appropriate in the circumstances.

(iv) Police officers should use lethal or potentially lethal force only when absolutely necessary to protect life.

(v) Police officers should plan and control operations to minimise, to the greatest extent possible, recourse to lethal force.

(vi) Individual officers are accountable and responsible for any use of force and must be able to justify their actions in law.

These principles entrench the fundamental legal principles of necessity, proportionality and the minimum use of force. Appendix 3 discusses the legal framework on the use of force in more detail.

B. Training on the use of force

Public order training for commanders and public order units should fully incorporate training on the use of force which reflects the six principles set out above and includes:

- **Legal tests for the use of force (reasonableness; absolute necessity); the principles of necessity and the minimum level of force and the 'continuum of the use of force' model (from communication and negotiation to escalation and back to de-escalation).**
- **Recognition that police officers have the right in law to use force in self defence or the protection of others but remain individually accountable for any use of force.**
- **Consideration of the impact of individual uses of force in a collective operational environment. Bronze commanders must consider the necessity of levels of force that can be reasonably foreseen, eg the response of individual officers to a command to disperse an unruly crowd.**
- **Existing requirements on the proper recording and reporting of all uses of force.**

Training on the use of force should not be abstract but should consider the practical application of the use force in the public order context, for example, by instructing officers that the use of particular tactics, such as the edge of a shield or a baton strike to the head may constitute potentially lethal force.

C. Planning operations which may involve the use of force

Police officers responsible for the planning and control of operations where the use of force is a possibility should so far as possible plan and control them to minimise recourse to the use of force, particularly potentially lethal force.

CHAPTER 7

FACILITATING PEACEFUL PROTEST – FRAMEWORK FOR POLICE DECISION-MAKING

> It is hard to overestimate the importance for officers to understand the law when each individual police officer is legally accountable for exercising their police powers, most particularly the use of force.

Drax Power Station, North Yorkshire 2006 – Attributed to Jono Brennan

FACILITATING PEACEFUL PROTEST – FRAMEWORK FOR POLICE DECISION-MAKING

Adapting to Protest highlighted confusion regarding the legal framework for the policing of protest, in particular the human rights obligations of the police under ECHR Article 11 (the right to freedom of peaceful assembly). HMIC's national review of public order operations confirms a lack of understanding of the law and police public order powers and duties across police forces and among public order commanders. ACPO and the NPIA need to address the complexity of public order legislation and provide practical guidance and support to commanders and operational officers. HMIC has developed a series of illustrative human rights compliant decision-making flow diagrams to assist public order practitioners. HMIC has also identified a number of specific concerns regarding the inappropriate use of police powers. These are discussed in the next chapter.

A. A HUMAN RIGHTS COMPLIANT FRAMEWORK FOR PUBLIC ORDER POLICING

Adapting to Protest highlighted confusion regarding the legal framework for the policing of protest, in particular the human rights obligations of the police under Article 11 of the European Convention on Human Rights (ECHR) the right to freedom of peaceful assembly. It identified the starting point for policing protest as the presumption in favour of facilitating peaceful protest. However, this is not an *absolute* presumption. ECHR Article 11 is a qualified right which means that the right to peaceful assembly can be restricted if the restriction is prescribed by law, has a legitimate aim (including the interests of public safety, the prevention of disorder or crime and the protection of the rights of others), and is necessary and proportionate.[1]

The police have statutory powers and duties in relation to the policing of protest, including those set out in the Public Order Act 1986, the Criminal Justice and Public Order Act 1994, the Criminal Law Act 1967, the Police and Criminal Evidence Act 1984, and common law powers and duties, including powers to prevent breaches of the peace. The use of all police powers must be considered in accordance with the Human Rights Act 1998. This requires all public authorities, including the police, to act in a way which is compatible with the rights set out in Schedule 1 to the Act, which are taken from the ECHR, unless primary legislation requires them to act otherwise.[2]

HMIC's national review of public order operations (discussed in Chapter 2) and public order training (discussed in Chapters 5 and 6) confirms a lack of understanding of the law, particularly the

1 European Convention on Human Rights (ECHR) Article 11(2).

2 Human Rights Act 1998, ss.6(1) and 6(2).

human rights obligations of the police, and police public order powers and duties across police forces and among public order commanders. HMIC has a level of sympathy with public order commanders – 29 pieces of legislation making a total of 90 amendments (both superficial and substantive) to the Public Order Act 1986 have been introduced since the Act came into force and, together with other legislation dealing with public order related matters, this has created a complex and multi-layered legislative framework for public order policing. It is not a straightforward task to decipher police powers and duties. Nevertheless, the low level of understanding of the human rights obligations of the police in the public order context, particularly in relation to the use of force, is of serious concern.

Appendix 4 discusses the legal framework for the right to protest in public and private space and sets out the human rights obligations of the police under the Human Rights Act 1998.

Part of the role of ACPO and the NPIA should be to address the complexity of public order legislation and provide practical guidance and support to commanders and operational officers on their powers and duties to ensure a human rights compliant approach to public order policing. Large manuals of guidance are not helpful on a hot afternoon. To illustrate the possibility of devising practical guidance which can be applied by public order practitioners planning, commanding and controlling public order operations, HMIC has developed a series of human rights compliant decision-making flow diagrams[3] in relation to the following:

1. Facilitating peaceful protest.
2. Use of the public highway.
3. Protests on private land.

These practical guides are included at the end of this chapter and are also available in PDF format on the HMIC website. They are designed to illustrate the alternatives to formulating large manuals of guidance which are difficult to access and absorb and challenging to keep updated.

B. INAPPROPRIATE USE OF POLICE POWERS

It is a distinctive feature of the rule of law that the exercise of power by public officials (including the police), which affects members of the public, must be governed by clear and accessible legal rules:

> The public must not be vulnerable to interference by public officials acting on any personal whim, malice, predilection or purpose other than that for which the power was conferred. That is what … is meant by arbitrariness, which is the antithesis of legality.[4]

During its national review of public order operations (see Chapter 2), HMIC has identified a number of specific concerns regarding the inappropriate use of police powers, in particular, police use of stop and search powers and police use of overt photography during protests. We discuss each of these in more detail below.

[3] These decision-making flow-diagrams were designed by HMIC's Human Rights Advisor and agreed with Senior Counsel.

[4] *R (on the application of Gillan and another v. Commissioner of Police for the Metropolis and another* [2006] UKHL 12, per Lord Bingham, para.34.

1. Use of Stop and Search Powers

Police have the power to stop and search individuals and vehicles under a wide range of legislation, which is summarised below.

Police and Criminal Evidence Act 1984 (PACE)

Under PACE section 1, a police officer may search an individual and/or his or her vehicle in any public place if the officer has reasonable grounds to suspect the individual to have in his or her possession stolen goods, prohibited articles (including articles that may be used to damage or destroy property[5]), bladed or sharply pointed articles,[6] or articles used for burglary or theft.

Under PACE section 2, a police officer must take reasonable steps before he commences a search to inform the person being searched of the following matters:[7]

(i) the officer's name and the name of the police station to which he is attached;

(ii) the object of the proposed search;

(iii) the officer's grounds for proposing to make the search; and

(iv) If the officer makes a record of the search, the person searched is entitled to a copy of the officer's record.[8]

Criminal Justice and Public Order Act 1994

Under section 60 of the Criminal Justice and Public Order Act 1994, a police officer of the rank of inspector or above may authorise the search of all persons and vehicles within a locality if the officer reasonably believes that incidents involving serious violence may take place or that persons are carrying dangerous instruments or offensive weapons without good reason. The stop and search powers are exercisable for a specified period not exceeding 24 hours. Once the authorisation has been given by the senior officer, a police officer does not need to have reasonable suspicion to search individuals or vehicles within the specified locality.[9]

5 Criminal Justice Act 2003, s.1 extended police powers of stop and search to include items made or adapted for use in connection with offences of destroying or damaging property.

6 Criminal Justice Act 1988, s.140(1)(c) extended police powers of stop and search to include bladed or sharply pointed articles.

7 PACE, s.2(3).

8 Ibid, s.3(7) and (8).

9 A person who is searched by a constable under this section shall be entitled to obtain a written statement that s/he was searched under the powers conferred by this section if
s/he applies for such a statement not later than the end of the period of twelve months from the day on which s/he was searched: s.60(10A). Where a vehicle is stopped by a constable under this section, the driver shall be entitled to obtain a written statement that the vehicle was stopped under the powers conferred by this section if s/he applies for such a statement not later than the end of the period of twelve months from the day on which the vehicle was stopped: s.60(10).

HMIC has received reports of the use of section 60 of the Criminal Justice and Public Order Act 1994 to detain individuals to require them to provide their name and address and agree to be photographed by the police.[10] The police do not have powers under section 60 of the 1994 Act to require persons to provide their name and address or to take photographs of such individuals. This is a misuse of police stop and search powers under section 60 of the 1994 Act and is likely to be found to be unlawful.

Terrorism Act 2000

The Terrorism Act 2000 provides the police with wide powers of stop and search. Under sections 44 and 45 of the Act, once a police officer of the rank of assistant chief constable grants an authorisation,[11] a police officer has the power to stop a person or vehicle in an area or at a place specified in the authorisation and to search the person or vehicle and its occupants[12] for articles associated with terrorism.[13] The powers conferred are for the purpose of searching for, seizing and detaining articles of a kind which could be used in connection with terrorism. Again, this blanket search power does not require the officer to have reasonable suspicion of the presence of articles used for terrorism. The House of Lords has held that if the exercise of the power is duly authorised and confirmed and the power is exercised for the only purpose for which it may permissibly be exercised (ie to search for articles of a kind which could be used in connection with terrorism), such proper exercise of the power will be proportionate when seeking to counter the threat of terrorism.[14] However, in exercising this stop and search power, a police officer is not free to act arbitrarily – the power does not entitle the officer to stop and search people who are obviously not terrorist suspects.[15]

Lord Carlile, the Independent Reviewer of the Terrorism Act 2000, has publicly recorded difficult problems with the use of section 44 by the police around the country, noting an inconsistency of approach among chief officers as to why, and if so when, section 44 should be used.[16] He has made the explicit recommendation that:

10 HMIC meeting with FITwatch, 14 October 2009.

11 On the grounds that such an authorisation is expedient for the prevention of acts of terrorism: Terrorism Act 2000, s.44(3).

12 Terrorism Act 2000, s.44(1) and (2).

13 Ibid, s.45(1).

14 *R (on the application of Gillan and another) v. Commissioner of Police for the Metropolis and another* [2006] UKHL 12, per Lord Bingham, para.29.

15 Ibid per Lord Bingham at para.35.

16 *Report on the Operation in 2007 of the Terrorism Act 2000 and of Part I of the Terrorism Act 2006*, Lord Carlile, June 2008.

> [Section 44] should not be used where there is an acceptable alternative under other powers. Before each section 44 decision is made the chief officer concerned should ask him/herself very carefully if it is really necessary, without reasonable alternative... The aim should be that in all circumstances they stop and search in appropriate circumstances only, and that they use the powers most fit for purpose.[17]

The Joint Committee on Human Rights in its *Demonstrating Respect for Rights? Follow-up* report published at the end of July 2009 also deplored the "obvious overuse of section 44 of the Terrorism Act 2000 in recent years".[18] An application has been made to the European Court of Human Rights[19] challenging the legality of police powers to stop and search under sections 44 and 45 of the Terrorism Act 2000. The Court's judgment is pending.

Evaluation

HMIC has received reports from a number of protest groups[20] regarding the inappropriate use of police powers to stop and search protesters, the reliance on incorrect stop and search powers by officers when conducting searches of protesters and the abuse of stop and search powers (and section 50 of the Police Reform Act 2002: see below) to obtain the names and addresses of protesters. The inappropriate use of stop and search powers was recorded as a significant issue in the ACPO/NPIA review of the policing operation relating to the Kingsnorth Climate Camp in 2008, with officers from different forces confused as to which stop and search power they were acting under.[21] The inappropriate use of police powers to stop and search may constitute an interference with the right to respect for private life under ECHR Article 8.[22] HMIC considers that the use of stop and search powers in public order operations must be carefully considered and controlled.

HMIC recommends that chief officers should monitor the use of stop and search powers during public order operations in their force area to ensure:

(i) stop and search is conducted under the correct legislation and in line with force policy; and

(ii) all officers (including those providing mutual support to the local force) are adequately briefed on, and understand, the legal powers under which they are exercising their stop and search powers.

17 Ibid.

18 Joint Committee on Human Rights, *Demonstrating Respect for Rights? Follow-up*. Twenty-second Report of Session 1008-09, HL Paper 141, 28 July 2009.

19 *Gillan v UK* was argued before the European Court of Human Rights approximately six months ago.

20 Including Climate Camp and FITwatch.

21 See Chapter 3.

22 See, for example, *R (on the application of Gillan and another) v. Commissioner of Police for the Metropolis and another* [2006] UKHL 12, per Lord Bingham, para.28.

HMIC commends as a matter of best practice the monitoring by police authorities of police use of stop and search powers during public order policing operations and scrutiny of patterns of police stop and search activity to identify any disproportionate or inappropriate use.

2. Power to Require Name and Address

The Police Reform Act 2002, section 50 provides that a police officer may require the name and address from a person who the officer has reasonable grounds to believe has been acting or is acting in an anti-social manner. This power was introduced to deal with anti-social behaviour. Anti-social behaviour means behaviour by a person which causes or is likely to cause harassment, alarm or distress to one or more persons not of the same household as the person.

HMIC has also received reports that police officers have relied on section 50 of the Police Reform Act 2002 to require protesters taking part in demonstrations or assemblies to provide their name and address when they are being searched.[23] Reasonable grounds that a person has been acting or is acting in anti-social manner are required before a police officer can require an individual to give his or her name and address under section 50. The participation in a peaceful public assembly or procession is not a sufficient ground, in and of itself, for believing a person is acting in an anti-social manner. It is likely that wide-scale use of section 50 of the Police Reform Act 2002 by the police when dealing with peaceful protesters would be found to be unlawful.

HMIC recommends that the Home Office should clarify the scope and application of section 50 of the Police Reform Act 2002 for police forces.

3. Police Use of Overt Photography

The police routinely video or take photographs of individuals during public order events. The main purpose of taking photographs of individuals or videoing events is to prevent and detect crime – photographic images enable the police to identify individuals committing criminal offences and take action against them either during the event or subsequent to the event. The police use forward intelligence teams and evidence gathering teams to take overt photographs and/or video events. The activities of both are discussed further below.

Forward Intelligence Teams

Forward intelligence teams (FITs) were introduced to provide chief officers with up-to-date information about the movement of crowds and groups within crowds that are likely to be violent or engage in disorder. FITs have become a regular feature of the policing of public

[23] From, among others, representatives of Climate Camp and FITwatch.

protest and other high profile events within London and elsewhere. Currently there are approximately 310 trained FIT officers nationally[24] with two thirds of those situated within the Metropolitan Police Service (MPS).[25] The MPS has been at the forefront of the development of the role of FITs nationally.[26] FITs are routinely deployed alongside Evidence Gathering Teams.[27]

FITs are deployed in units of two or three uniformed officers. They are trained to gather intelligence and information on the changing mood, dynamics, and intent of crowds which is then passed back to the control room or intelligence centre to assist in the appropriate deployment of resources. They keep a record of incidents, people identified and any other information which is later transcribed into an intelligence report. They are expected to withdraw during outbreaks of disorder to be replaced with officers specifically trained and equipped to deal with disorder.

One of the tactics employed by FITs is to seek out persons likely to engage in disorder and follow them to monitor their actions. The purpose of this is to deprive the person of the ability to engage in disorder, due to the proximity of police officers. This tactic has been criticised by a number of protest groups as oppressive and constituting harassment of peaceful protesters.[28]

Nationally, the role of FITs is defined within the ACPO *Public Order Standards, Tactics and Training Manual* (2004).[29] The FITs section of the manual is currently under revision. The revised draft defines the role and objectives of FITs as follows:

- To identify individuals and groups who may become involved in public disorder.
- To establish a dialogue with individuals and groups to gather information and intelligence.
- To provide commanders with live updates in order that resources can be deployed efficiently and effectively.
- To gather intelligence by observation and conversation supplemented with the effective use of camera, video and/or other technical equipment.
- To maintain contact with other officers policing the event to assist in the identification of suspects.
- To search for and identify potential suspects in public houses, railway stations, bus and car parks, shopping centres, etc.
- To monitor marshalling, assembly and dispersal areas to identify prominent participants.
- To identify breakaway groups and, where appropriate, accompany them.
- To identify demonstrators by using intelligence gathering and photographic teams.
- To obtain information about participants and future events.

24 HMIC Focus Group with MPS FIT trainers, August 2009.

25 FITs were introduced into the Metropolitan Police Service following an internal inquiry lead by MPS Commander Kendrick into the policing of the Park Lane riots on 11 October 1994.

26 The current NPIA training programme has been drafted in consultation with MPS FIT trainers.

27 Although some police services merge the role of a FIT officer and an EGT officer.

28 Including Climate Camp and FITwatch.

29 *Public Order Standards, Tactics, and Training Manual,* Part One: National Standards and Definitions.

Evidence Gathering Teams

The role of Evidence Gathering Teams (EGTs) is to gather evidence of offences committed during a public event. EGTs are deployed to locations where disorder or violence is anticipated or is taking place. Prior to an event, EGTs will be deployed to obtain evidence, including images of persons attending the event. The footage recorded will be checked against footage of persons committing offences during the event to assist identification for the purposes of potential prosecutions. Post event footage obtained by EGTs is used to demonstrate the event's impact on the local community to the prosecuting court.

Evaluation

While the role of EGTs is well established, there is currently a lack of clarity around the role and function of FITs. The initial role of FIT officer was to communicate with individuals and groups taking part in public events such as protests and gather information on crowd mood and dynamics to inform command decision-making. The original intention was that FIT officers would act as a link between protesters and the police, in a similar manner as the dialogue police in Sweden (discussed in Chapter 3). It is apparent that the role of FIT officer has shifted significantly over the past few years. FITs are now often deployed in personal protective equipment and accompanied by photographers.

The section of the manual defining the role and objectives of FITs is not sufficiently clear. The FIT role includes identifying demonstrators by using intelligence gathering and photographic teams and obtaining information about participants and future events. The manual does not explain the purpose for which the information is required. If individuals are lawfully exercising their rights to freedom of expression and peaceful assembly, the justification for police gathering this personal information is unclear, and it is not at all obvious under what powers the police are acting in these circumstances.

Concerns have been identified regarding the lack of guidance for commanders and FIT officers on the powers, role, function and responsibilities of FITs. In a number of public order policing operations considered by HMIC as part of this review, there appears to be confusion regarding the proper function and activities of FITs. On some occasions, there appears to have been a merger between the roles of FITs and EGTs. This lack of clarity creates the potential for FIT officers and EGT officers to act outside their lawful powers.

The lack of clear, precise guidance on the role and function of FITs creates the possibility that the use of FITs and their activities will vary according to the practice of individual forces or public order commanders. When the exercise of police power has the possibility of interfering with individuals' rights to privacy guaranteed under ECHR Article 8, it is important that any interference is not random or arbitrary but is governed by clear pre-existing rules, and that the circumstances and procedures adopted are predictable and foreseeable by those to whom they are applied.[30]

[30] *R v Ashworth Hospital Authority (now Mersey Care National Health Service Trust) ex parte Munjaz* [2005] UKHL 58, per Lord Bingham, para.34.

HMIC notes that if the practice of deploying FITs in public order operations is supported by cogent, reasoned justification based on clear, precise guidance, then any court assessing the lawfulness of the activities of FITs is likely to take this guidance into account in assessing whether any interference with Article 8 ECHR rights is in accordance with the law.[31]

The lawfulness of police taking and retaining photographs

Police use of overt photography raises significant human rights issues, notably the question of whether police action is compatible with the right to private life protected by ECHR Article 8. A distinction must be drawn between the initial police activity of taking the photograph and the subsequent retention of the image by the police. The Court of Appeal has recently considered these issues. The case[32] concerned whether the taking and retention of photographs by the Metropolitan Police Service (MPS) of W, a media co-ordinator employed by Campaign against the Arms Trade, when he was leaving the Annual General Meeting of Reed Elsevier plc[33] (in which W held one share, thereby entitling him to attend the meeting) was unlawful and in violation of ECHR Articles 8 (right to respect for private and family life), 10 (freedom of expression), 11 (freedom of peaceful assembly and association) and 14 (prohibition against discrimination).

The Court of Appeal decided that the case did not interfere with W's rights under ECHR Articles 10 and 11, nor did he suffer discrimination contrary to ECHR Article 14. The principal issue in the case was whether W's right to respect for his private life was violated by the police taking and retaining photographs of him. The findings of the Court of Appeal are summarised below.

HMIC recommends that ACPO and the NPIA should clarify the precise role of Forward Intelligence Teams. Public order training should include guidance on the function of FITs and the specific tactical parameters under which FITs should be deployed in public order operations.

[31] Ibid, applying *Silver v UK*, App. No.s 5947/72; 6205/73; 7052/75; 7061/75; 7107/75; 7113/75; 7136/75) 25 March 1983, where the European Court of Human Rights held that Prison Orders and Instructions establishing a practice (a correspondence control system) which had to be followed except in exceptional circumstances, although they did not of themselves have the force of law, may be taken into account in assessing whether the practice was in accordance with the law for the purposes of ECHR Article 8(2).

[32] *Wood v Commissioner for the Metropolis* [2009] EWCA Civ 414.

[33] The parent company of Spearhead Exhibitions Limited which organises trade fairs for various industries, including the arms industry.

Scope of protection guaranteed by ECHR Article 8

1. The content of the phrase "private and family life" in ECHR Article 8 is very broad indeed.[34] It extends to the personal identity of a person, such as a person's name or a person's picture.[35]

2. The central value protected by ECHR Article 8 is the personal autonomy of every individual. This takes concrete form as a presumption against interference with an individual's liberty:[36]

   "an individual's personal autonomy makes him … master of all those facts about his own identity, such as his name, health, sexuality, ethnicity, his own image… He is the presumed owner of these aspects of his own self; his control of them can only be loosened… if the State shows an objective justification for doing so."[37]

3. There are three qualifications to the scope of protection guaranteed by Article 8:

   (i) the alleged threat or assault to the individual's personal autonomy must attain "a certain level of seriousness" before Article 8 is engaged.[38]

   (ii) the individual must enjoy a "reasonable expectation of privacy". Absent such expectation, there is no interference with Article 8.

   (iii) The breadth of Article 8(1) may be greatly restricted by lawful justification of action by State authorities under Article 8(2).

Is Article 8 engaged by the mere taking of photographs?

4. The bare act of taking someone's photograph in a public street is not of itself capable of engaging Article 8(1) unless there are aggravating circumstances.[39]

5. However, the circumstances in which a photograph is taken in a public place may of themselves turn the event into one in which Article 8 is violated. The act of taking the picture(s) may be intrusive or even violent, conducted by means of hot pursuit, face-to-face confrontation, pushing, shoving, barging into the affected person's home. The subject of the photographer's interest may be seriously harassed and perhaps assaulted. He or she may feel frightened or distressed. Conduct of this kind would be likely to violate Article 8.[40]

[34] *Wood v Commissioner of Police for the Metropolis* [2009] EWCA Civ 414 (*Wood*), per Lord Justice Laws, para.19.

[35] *Von Hannover v Germany* (2005) EHRR 1.

[36] *Wood*, per Lord Justice Laws, para.s 21 and 22.

[37] *Wood*, per Lord Justice Laws, para.21.

[38] *Wood*, per Lord Justice Laws, para.s 22-26 and see, for example, *R (Gillan) v Commissioner of Police for the Metropolis* [2006] 2 AC 307, para.28 per Lord Bingham.

[39] *Wood*, per Lord Justice Laws, para.36.

[40] *Wood*, per Lord Justice Laws, para.34.

Does the taking and use of the photos amount to a violation of Article 8?

6. There is unlikely to be a violation of ECHR Article 8 when the police take photographs and video images of persons participating in a protest for use in the investigation and prosecution of criminal offences provided that (i) the photographs relate to the public incident (the protest) in which the individuals were voluntarily participating;[41] (ii) the photographs are solely for the purposes of recording the character of the demonstration and the conduct of the participants to assist any subsequent investigation of criminal offences committed; and (iii) the persons photographed remain anonymous in that no names are noted down and the personal data recorded or photographs taken are not entered into a data processing system.[42]

7. In this case, however, W's complaint was that his image was recorded by the police for an unknown purpose without his consent and without justification – the police visibly and without explanation took and kept photographs of W as he was going about his lawful business in the streets of London. In these circumstances, Article 8 was engaged.

8. The police action, unexplained at the time and carrying the implication that the photographs would be kept and used, constituted a sufficient intrusion into the individual's own space and integrity as to amount to a potential violation of Article 8(1):[43]

   (a) the intrusion attained a sufficient level of seriousness; and

   (b) W had a reasonable expectation that his privacy would not be invaded in this way.

Whether the police was action justified under Article 8(2)

9. The critical question was whether the police action could be justified under ECHR Article 8(2), ie was it in accordance with the law; did it pursue a legitimate aim and was it necessary and proportionate?

10. The Court held that the police operation must be judged as a whole, from the taking of the pictures to their actual and intended retention and use.

In accordance with the law

11. The taking of the photographs were lawful at common law in pursuit of the common law powers of the police to detect and prevent crime.[44]

[41] Although note the decision of *Peck v UK* App. No. 44647/98 (28 January 2003) which recognises that the disclosure, without sufficient safeguards, of a photographic record of an individual's movements on a public street may in certain circumstances constitute an interference with the individual's right to private life under ECHR Article 8.

[42] *Friedl v Austria* (1995) 21 EHRR 83: this case concerned a demonstration involving a round-the-clock sit-in of about 50 persons in an underground pedestrian passage in Vienna. The police took photographs and video images of persons participating in the demonstration for use in any subsequent prosecution of criminal offences. There was found to be no violation of ECHR Article 8; *Lupker and Others v the Netherlands* App. No. 18395/91: in this case, the Commission specifically noted that the police used the photographs to identify offenders in criminal proceedings only and that there was no suggestion that the photographs had been made available to the general public or would be used for any other purpose.

[43] *Wood*, per Lord Justice Laws, para.46.

[44] *Wood*, per Lord Justice Laws, para.s 50-55, relying on *Murray v UK* (1994) 19 EHRR 193 and Lord Collins, para.s 98-99.

12. However, the court declined to express a concluded view on the question of whether the interference with W's Article 8 rights (ie the retention of the photographs by the police) was in accordance with the law.[45]

Legitimate aim

13. The taking and retention of photographs of W were in pursuit of the legitimate aim of the prevention of disorder or crime, or in the interests of public safety, or for the protection of the rights and freedoms of others.[46]

Necessary and proportionate

14. In deciding whether an interference is necessary, the court will have regard to:
    (a) the nature of the right in issue;
    (b) the importance of the right to the individual;
    (c) the nature and extent of the interference; and
    (d) the objective of the interference.[47]

15. The retention by the police of photographs must be justified and the justification must be all the more compelling where the interference with a person's rights is in pursuit of the protection of the community from the risk of low level crime or disorder as opposed to protection against the danger of terrorism or really serious criminal activity.[48]

16. The retention of photographs taken of persons who have not committed an offence, and who are not even suspected of having committed an offence, is a serious matter.[49]

17. The police interference with the rights of W was disproportionate:[50]
    (i) The main reason why the photographs were taken was to obtain evidence in case an offence had been committed.
    (ii) The police had no reason to believe that W had taken part in any unlawful activity but nevertheless he was followed by a police car and then questioned about his identity by four officers.
    (iii) The retention of the photographs for more than a few days could not be justified as furthering the aim of identifying individuals who may have committed criminal offences during that day.
    (iv) A possible brief association between W and a person who had a history of unlawful activity did not provide any justification for a lengthy retention of the photographs.

[45] *Wood*, per Lord Justice Dyson, para.80-81 and Lord Collins, para.98.

[46] *Wood*, per Lord Justice Laws, para.48. The MPS stated that the pictures were taken (i) so that if disorder erupted and offences were committed, offenders could be identified, albeit at a later time if necessary; and (ii) so that persons who might possibly commit public order offences at a related subsequent event could be identified in advance.

[47] *Wood*, per Lord Justice Dyson, para.s 83-84.

[48] Applying *R (Gillan) v Commission of Police for the Metropolis* [2006] UKHL 12.

[49] *Wood*, per Lord Justice Dyson, para.85.

[50] *Wood*, per Lord Justice Dyson, para.s 89-90 and Lord Collins, para.97.

(v) Once it became clear that W had not committed any offence, there was no reasonable basis for fearing that W might attend and commit an offence at a future event in several months. W was a person of good character with no previous convictions. There was no more likelihood that W would commit an offence if he went to a future event than any other citizen of good character who happened to go.

18. There was a violation of ECHR Article 8.

Retention and storage of data

The collection, processing and storage of personal data all amount to interferences with an individual's right to respect for his or her privacy.[51] While in the particular case discussed above, W's image was not placed on the police database, the Court of Appeal commented upon the impact of the retention and storage of personal data, stating:

(i) The retention and storing of personal data by public authorities, however obtained, interferes with the private-life interest of individuals under ECHR Article 8, irrespective of whether subsequent use is made of the data.[52]

(ii) There is a qualitative difference between retention of photographic images on the one hand and fingerprints and DNA on the other.[53]

(iii) Very serious human rights issues arise when the State obtains and retains images of persons who have committed no offence and are not suspected of having committed any offence.[54]

The retention of images and personal data by the police is subject to strict legal regulation.[55] This is because increasing amounts of personal information held electronically exposes individuals to potential infringements of their information and privacy rights. HMIC considers that it is critical that police officers deployed as members of forward intelligence teams or evidence gathering teams understand their legal powers and duties and do not unjustifiably interfere with the privacy rights of persons lawfully exercising their rights to freedom of expression and peaceful assembly. In its July 2009 Follow-up report on the policing of protest,[56] the Joint Committee on Human Rights, referring to the *Wood* judgment recorded a statement by David Hanson MP of 30 June 2009 that "the continuing retention of such photographs

51 See, for example, *MS v Sweden* (1997) EHRR 313.

52 *Wood*, per Lord Justice Dyson, para.85, citing S. and *Marper v UK* [2008] EHRR 1581, para.121.

53 *Wood*, per Lord Justice Dyson, para.85. In *Marper v UK*, the Grand Chamber of the European Court of Human Rights held that the blanket and indiscriminate nature of the powers of retention of the fingerprints, cellular samples and DNA profiles of persons suspected but not convicted of offences failed to strike a fair balance between the competing public and private interests such that the retention constituted a disproportionate interference with the rights to respect for private life and cannot be regarded as necessary in a democratic society.

54 *Wood*, per Lord Collins, para.100.

55 Under the Data Protection Act 1998, Freedom of Information Act 2000 and Human Rights Act 1998.

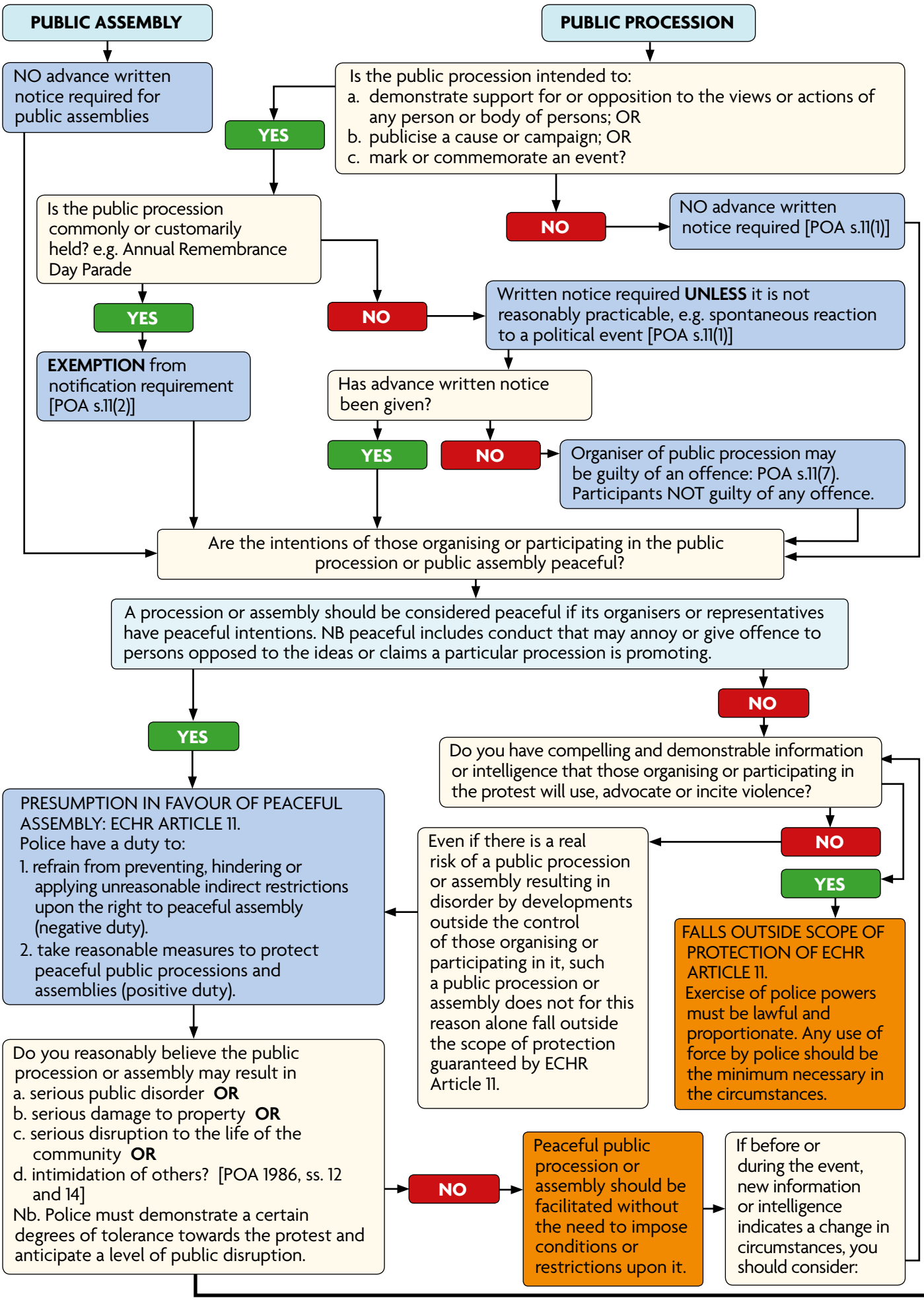
56 Joint Committee on Human Rights, *Demonstrating Respect for Rights? Follow-up*. Twenty-second Report of Session 1008-09, HL Paper 141, 28 July 2009.

will generally have to be justified by the existence of clear grounds for suspecting that the individual photographed may have committed an offence at the event in question … clearly, all [police] forces need to review their policies and procedures … in light of the Court of Appeal ruling."[57]

HMIC recommends that the Home Office should clarify the legal framework for the use of overt photography by police during public order operations and the collation and retention of photographic images by police forces and other policing bodies.

[57] Ibid at para.56.

FACILITATING PEACEFUL PROTEST



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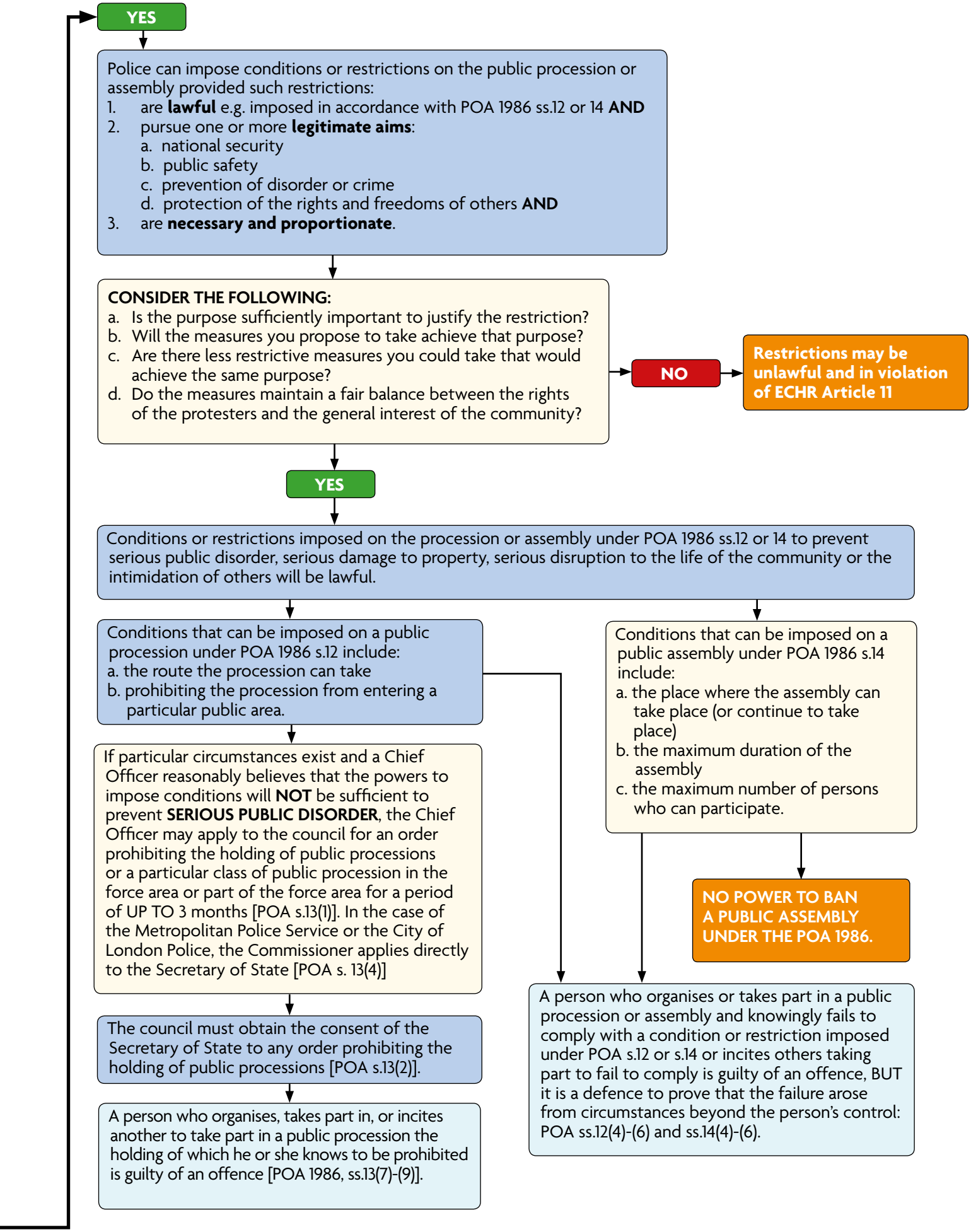
YES
Police can impose conditions or restrictions on the public procession or assembly provided such restrictions:
1. are lawful e.g. imposed in accordance with POA 1986 ss.12 or 14 AND
2. pursue one or more legitimate aims:
a. national security
b. public safety
c. prevention of disorder or crime
d. protection of the rights and freedoms of others AND
3. are necessary and proportionate.
CONSIDER THE FOLLOWING:
a. Is the purpose sufficiently important to justify the restriction?
b. Will the measures you propose to take achieve that purpose?
c. Are there less restrictive measures you could take that would achieve the same purpose?
d. Do the measures maintain a fair balance between the rights of the protesters and the general interest of the community?
NO
Restrictions may be unlawful and in violation of ECHR Article 11
YES
Conditions or restrictions imposed on the procession or assembly under POA 1986 ss.12 or 14 to prevent serious public disorder, serious damage to property, serious disruption to the life of the community or the intimidation of others will be lawful.
Conditions that can be imposed on a public procession under POA 1986 s.12 include:
a. the route the procession can take
b. prohibiting the procession from entering a particular public area.
Conditions that can be imposed on a public assembly under POA 1986 s.14 include:
a. the place where the assembly can take place (or continue to take place)
b. the maximum duration of the assembly
c. the maximum number of persons who can participate.
NO POWER TO BAN A PUBLIC ASSEMBLY UNDER THE POA 1986.
If particular circumstances exist and a Chief Officer reasonably believes that the powers to impose conditions will NOT be sufficient to prevent SERIOUS PUBLIC DISORDER, the Chief Officer may apply to the council for an order prohibiting the holding of public processions or a particular class of public procession in the force area or part of the force area for a period of UP TO 3 months [POA s.13(1)]. In the case of the Metropolitan Police Service or the City of London Police, the Commissioner applies directly to the Secretary of State [POA s. 13(4)]
The council must obtain the consent of the Secretary of State to any order prohibiting the holding of public processions [POA s.13(2)].
A person who organises, takes part in, or incites another to take part in a public procession the holding of which he or she knows to be prohibited is guilty of an offence [POA 1986, ss.13(7)-(9)].
A person who organises or takes part in a public procession or assembly and knowingly fails to comply with a condition or restriction imposed under POA s.12 or s.14 or incites others taking part to fail to comply is guilty of an offence, BUT it is a defence to prove that the failure arose from circumstances beyond the person's control: POA ss.12(4)-(6) and ss.14(4)-(6).

USE OF PUBLIC HIGHWAY

The public right to use the public highway is NOT restricted to the right to pass and re-pass nor is it restricted to activities "incidental or ancillary" to the exercise of the right of passage.

Public highway = a public place on which **all manner of reasonable activities** can take place.

The right to freedom of peaceful assembly (ECHR Article 11) is denied if the police fail to recognise that peaceful assembly on the public highway may be lawful.

THREE QUESTIONS TO DETERMINE WHETHER SOMEONE IS GUILTY OF WILFUL OBSTRUCTION OF THE HIGHWAY:

1. **Is there an obstruction ?**
   Any stopping on the highway counts as an obstruction.

→ **NO** → **NO wilful obstruction of the highway**

→ **YES**

2. **Is the obstruction accidental?**

→ **YES** → **NO wilful obstruction of the highway**

→ **NO**

3. **Does the person obstructing the highway have a lawful excuse or lawful authority?**

   Any lawful activity carried out in a reasonable manner may amount to lawful excuse.

   Examples of lawful authority include permits and licences granted under statutory provisions.

→ **YES** → **NO wilful obstruction of the highway**

→ **NOT CERTAIN**

Key Question = is the person engaged in an activity which is a reasonable use of the highway?

An obstruction of the highway which is a lawful exercise of the right to peaceful assembly under ECHR Article 11 is unlikely to be unreasonable. For example, a peaceful assembly that does not prevent other people from using the highway is a reasonable use of the highway. But the complete obstruction of a major arterial route may be unreasonable. It depends on all the circumstances of the case, including:

- The place where the obstruction occurs.
- The length of time the obstruction continues.
- The purpose for which the obstruction is caused.
- Whether the activity does in fact cause an actual obstruction as opposed to a potential obstruction.

→ **NO** → Likely to be guilty of wilful obstruction of the highway

The police may place lawful restrictions on the exercise of the right to peaceful assembly on the public highway.

Any restrictions imposed on the exercise of the right to freedom of assembly must be in accordance with ECHR Article 11(2). They must:

1. be **lawful** e.g., imposed in accordance with POA 1986 ss.12 or 14 **AND**
2. pursue one or more **legitimate aims**:
   a. national security
   b. public safety
   c. prevention of disorder or crime
   d. protection of the rights and freedoms of others **AND**
3. be **necessary and proportionate**.

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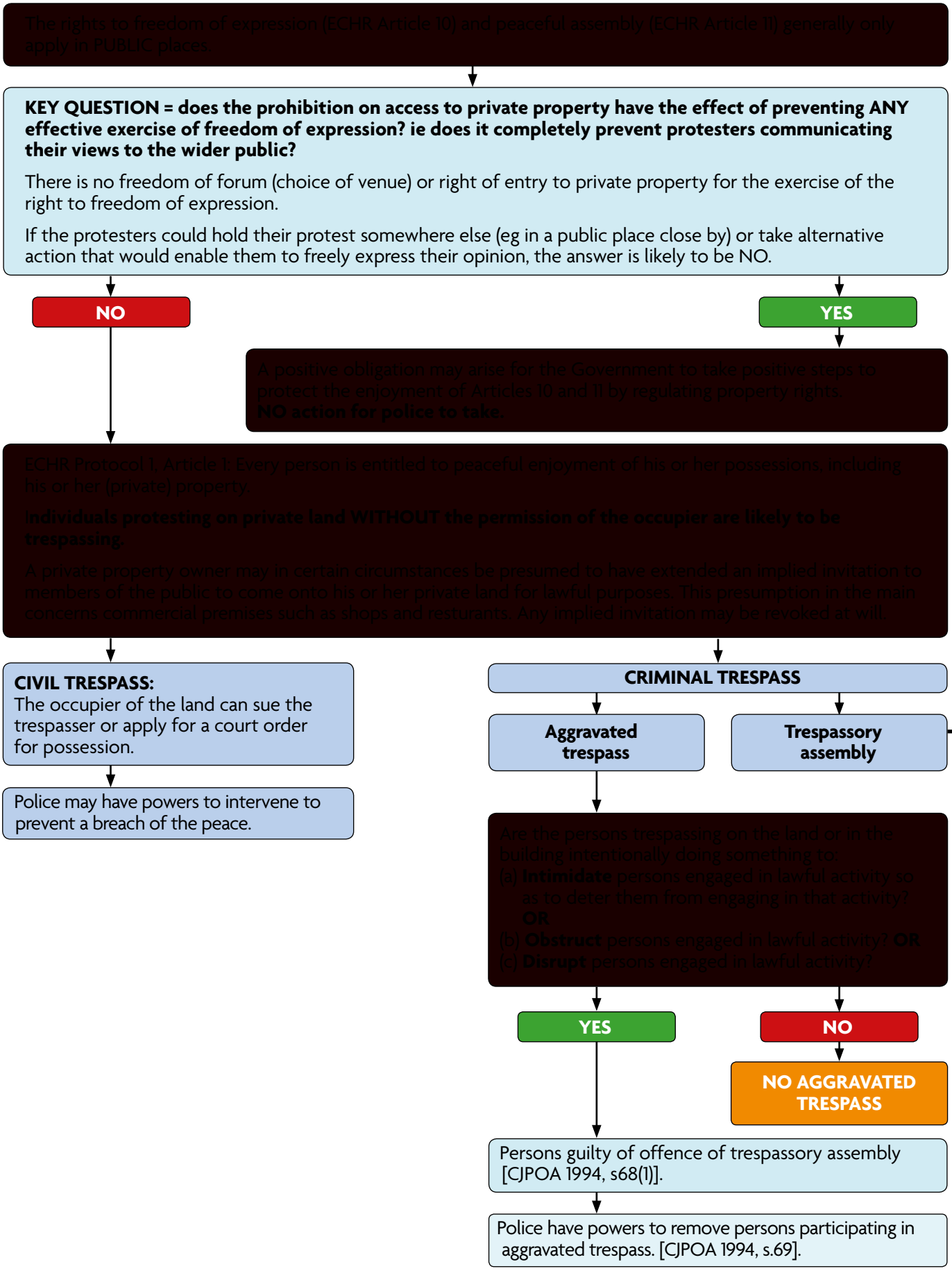
PROTESTS ON PRIVATE LAND



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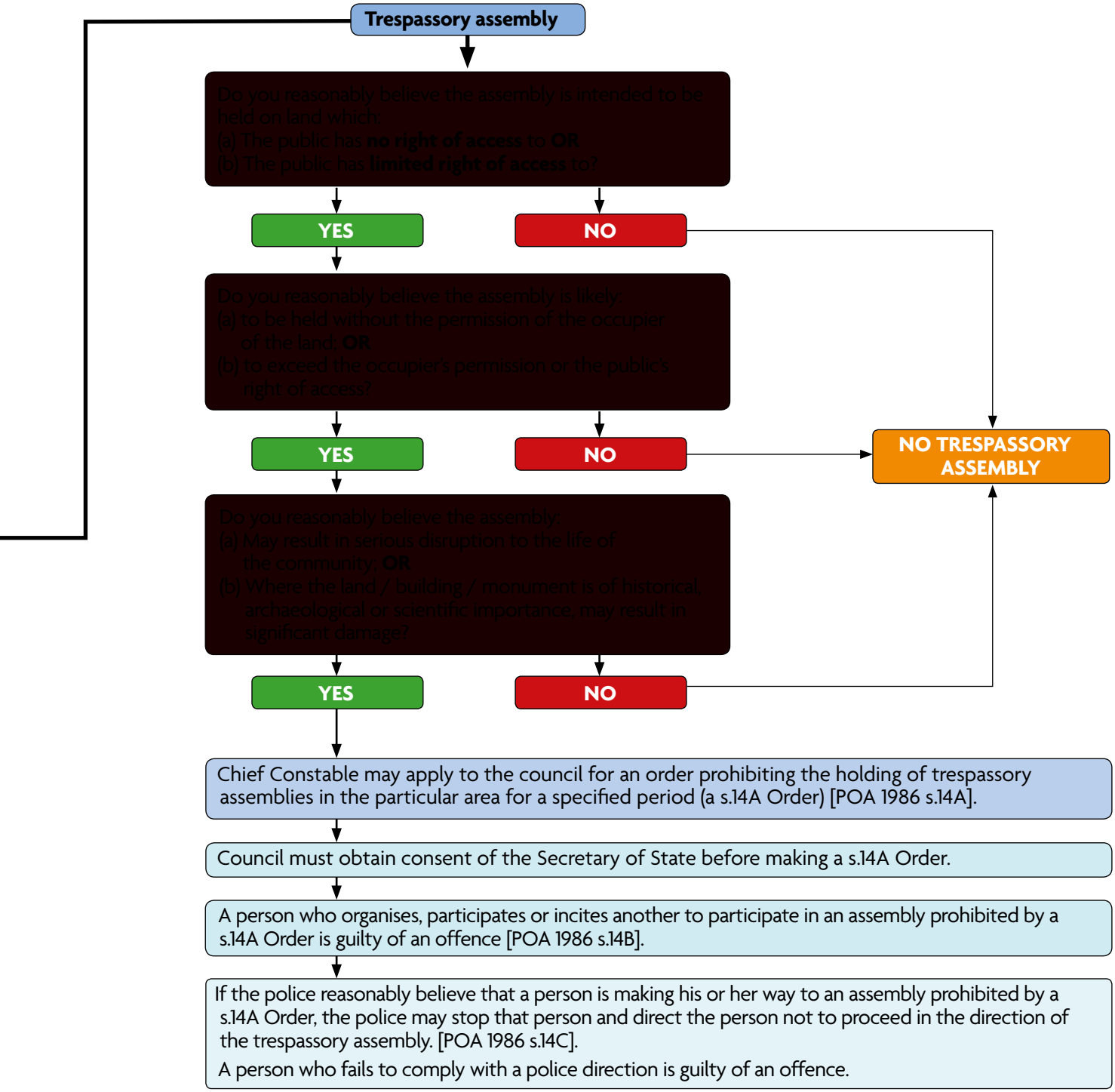

Trespassory assembly
Do you reasonably believe the assembly is intended to be held on land which:
(a) The public has **no right of access** to **OR**
(b) The public has **limited right of access** to?
YES
NO
Do you reasonably believe the assembly is likely:
(a) to be held without the permission of the occupier of the land; **OR**
(b) to exceed the occupier's permission or the public's right of access?
YES
NO
NO TRESPASSORY ASSEMBLY
Do you reasonably believe the assembly:
(a) May result in serious disruption to the life of the community; **OR**
(b) Where the land / building / monument is of historical, archaeological or scientific importance, may result in significant damage?
YES
NO
Chief Constable may apply to the council for an order prohibiting the holding of trespassory assemblies in the particular area for a specified period (a s.14A Order) [POA 1986 s.14A].
Council must obtain consent of the Secretary of State before making a s.14A Order.
A person who organises, participates or incites another to participate in an assembly prohibited by a s.14A Order is guilty of an offence [POA 1986 s.14B].
If the police reasonably believe that a person is making his or her way to an assembly prohibited by a s.14A Order, the police may stop that person and direct the person not to proceed in the direction of the trespassory assembly. [POA 1986 s.14C].
A person who fails to comply with a police direction is guilty of an offence.

CHAPTER 8

GOVERNANCE AND ACCOUNTABILITY

> The ability of the police to perform their duties is dependent on public approval and support for police action. Such approval and support is not unconditional and depends on public and legal accountability.

Lindsay Oil Refinery, 2009 – Attributed to Bataille Socialiste

GOVERNANCE AND ACCOUNTABILITY

This chapter considers national governance structures for public order policing and how these can be improved to better support and sustain police public order capability nationally. It then considers local accountability mechanisms for public order policing and the specific role that police authorities have to play in holding local forces to account for the planning and execution of public order operations within their force area.

Governance of the Police

The police are charged with the responsibility of upholding the rule of law, exercising their independent professional judgment to maintain the peace and protect the rights and freedoms of all individuals within society, independent of government and the executive. They feel that they must guard this independence to protect themselves against manipulation or politicisation. It is a cornerstone of modern British policing that the police do not serve the State or any other interest group – they serve the people. Indeed, it was the founding father of modern Irish and British policing, Sir Robert Peel, who articulated the principle that "the police are the public and the public are the police". But, as Lord Scarman recognised many years later, this means that while the police exercise independent discretion and judgment, they remain the servants of the people. As such, they cannot enforce their independent judgment without the support and consent of the people. Such consent is not unconditional, but depends on proper accountability.

There is a three-partner "power-sharing" relationship by which policing is governed in England and Wales:

1. The Home Secretary who is accountable to Parliament and determines national priorities and the level of central funding available.

2. Chief police officers who are accountable to police authorities and have operational responsibility.

3. Police authorities which are accountable to local people and are required to secure the maintenance of an efficient and effective local police force.[1]

The position in Northern Ireland is different. Its tripartite structure comprises the Secretary of State for Northern Ireland, the Northern Ireland Policing Board and the Chief Constable of the Police Service of Northern Ireland.

[1] Police Act 1996, s.6(1).

The role of the police as impartial servants of the people rather than agents of the executive is reflected in these tripartite systems of police governance. The functions of each part of the tripartite are defined in statute.[2]

A. NATIONAL GOVERNANCE STRUCTURE

The role of central government

The Home Secretary is required to "promote the efficiency and effectiveness of the police"[3] and has powers to:

- make regulations on the governance and administration of police forces;[4]
- issue codes of practice relating to the discharge of policing functions;[5] and
- require police forces to adopt particular procedures or practices.[6]

The Home Secretary also has powers to direct a local inquiry into any matter connected with policing[7] or where particular events have occurred where there is particular public concern.[8]

Additionally, the Home Secretary has powers to regulate equipment;[9] to require chief constables and police authorities to submit reports on the discharge of their respective functions;[10] and to require HMIC to carry out an inspection of a police force, or a particular part, function or activity of that force.[11]

The Home Secretary chairs the National Policing Board, established in 2006 to strengthen the governance of policing in England and Wales. The Board comprises senior representatives from each part of the tripartite. Its stated functions are to:[12]

- Agree the Home Secretary's annual national strategic priorities for policing and key priorities for the National Policing Improvement Agency.
- Set agreed priorities for the police reform programme and monitor progress in implementing the reform programme.
- Provide a regular forum for debate and communication on the opportunities and challenges facing policing.

2 Including the Police Acts of 1964 and 1996, the Police Act (Northern Ireland) 2000 and associated legislation and the Police (Reform) Act 2002.

3 Police Act 1996, s.36(1). The Home Secretary is required to issue guidance to police authorities and chief constables as to the matters to be contained within individual forces' three year strategy plans: Police Act 1996 s.36A as amended by Police Reform Act 2002, s.1.

4 Police Act 1996, s.50(1).

5 Ibid, s.39A(1) as amended by Police Reform Act 2002, s.2.

6 Ibid, s.53A(1) as amended by Police Reform Act 2002, s.7.

7 Ibid, s.49(1).

8 Enquiries Act 2005, s.1(1).

9 Police Act 1996, s.53A(1) as amended by Police Reform Act 2002, s.6.

10 Ibid, ss.43(1) and 44(1).

11 Ibid, s.54(2)B, as amended by Police Reform Act 2002, s.3. Where the subsequent report raises questions as to efficiency or effectiveness, the Home Secretary may require the police authority to take remedial action and to submit an associated action plan: Police Act 1996, s.53(1A) as amended by Police Reform Act 2002, s.5.

12 *National Policing Board* functions: http://police.homeoffice.gov.uk/police-reform/nat-policing-board.

In terms of public order policing, the Home Secretary is responsible for setting the public order legislative framework and responding to parliamentary and public interest in public order policing.[13] Within the Home Office, the Policing Policy and Operations Directorate exists to provide policy support, programme oversight and sponsorship of government agencies and other bodies which help the police service tackle major operational challenges. Within this directorate, the Public Order Unit supports Ministers in issues relating to public order and civil contingencies.[14]

There is some concern regarding the clarity of the Home Office's role in supporting public order policing capability. In its July 2009 report,[15] the Joint Committee on Human Rights concluded,

> the first concern is establishing a proper role for the Government in setting statutory boundaries for the police, so that police officers can exercise discretion without cutting across Government policy or contravening human rights legislation. We are not convinced that the Government is clear what its role should be.

The active support of the Home Office is required to strengthen and sustain the British model of policing and provide a degree of consistency for the public in the use of public order powers. It is the Home Secretary who defines the public order legislative framework and who has the responsibility to ensure the efficiency and effectiveness of the police as a service. HMIC endorses the comments made by the Joint Committee on Human Rights and urges the Home Office to clarify its role in relation to public order policing.

HMIC recommends that the active support of the Home Office is required to strengthen and sustain the British model of policing and ensure the continuing evolution of public order policing within a workable legislative framework.

Association of Chief Police Officers

The Association of Chief Police Officers (ACPO) comprises police officers who hold the rank of Chief Constable, Deputy Chief Constable or Assistant Chief Constable, or their equivalents. There are presently 280 members of ACPO. ACPO holds the status of a private limited company and is led by a full-time President, elected by members, for a term of three years. The ACPO statement of purpose is as follows:

> The Association of Chief Police Officers (ACPO) is an independent, professionally led strategic body. In the public interest and, in equal and active partnership with Government and the Association of Police Authorities, ACPO leads and co-ordinates the direction and

[13] Draft paper from Head of Home Office Public Order Unit, August 2009.

[14] *Home Office Policing Policy and Operations Directorate:* http://police.homeoffice.gov.uk/about-us/police-policy-operations/.

[15] Joint Committee on Human Rights, *Demonstrating Respect for Rights? Follow-up*, Twenty-second Report of Session 2008-09, JCHR published 28 July 2009.

> development of the police service in England, Wales and Northern Ireland. In times of national need ACPO, on behalf of all chief officers, co-ordinates the strategic policing response.[16]

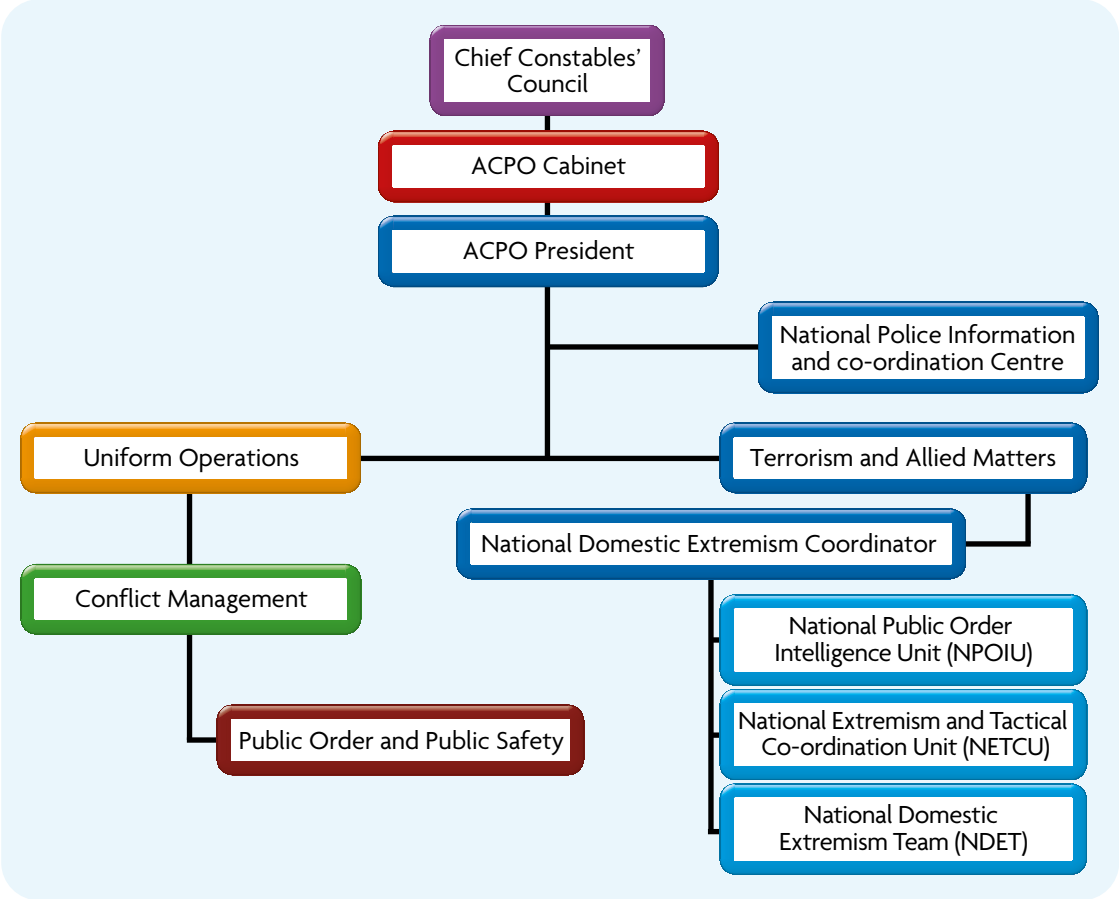
In discharging its functions, ACPO has developed 12 business areas, ranging from Children and Young People through to the 2012 Olympic Games. Each business area is headed by a Chief Constable (or equivalent) and is subdivided into a number of portfolios, each led by a member of ACPO. The lead for each business area reports to ACPO Cabinet and recommends policy for adoption at national level (England, Wales and Northern Ireland). Following ACPO Cabinet endorsement, the Chief Constables Council gives final approval to proposed national policy. It is possible for Chief Constables to derogate from nationally approved policy, but rationale for such derogation must be provided in writing to the ACPO President. There is however a distinct difference between ACPO policy documents or manuals of guidance and policy codified by the Home Secretary. The former present chief constables with flexibility to apply policy to their local environments, the latter mandates a much stricter level of compliance.[17]

Public order policing falls under the ACPO business area of Uniformed Operations, which is further sub-divided into four portfolios, including Conflict Management, which in turn is further divided into three related areas: (i) self-defence, arrest and restraint; (ii) armed policing; and (iii) public order and public safety. Each of these three areas is supported by a working group chaired by a member of ACPO. Figure 5 sets out the ACPO governance structure for public order.

[16] ACPO *'About us'* page: http://www.acpo.police.uk/about_pages/ACPO%20SOP%20(Option%202).doc.

[17] Police Act 1996, s.39.

Figure 5: ACPO governance structure for public order



The ACPO Public Order and Public Safety (POPS) working group has responsibility for setting the strategic direction of public order policing and commissions the National Policing Improvement Agency (NPIA) to develop guidance and training programmes. It is also responsible for the ACPO public order manual of guidance, *Keeping the Peace*.

Police National Information and Co-ordination Centre

The Police National Information and Co-ordination Centre (PNICC) is a quasi-operational arm of ACPO, enabling ACPO to put in place an effective mechanism for managing information and for deploying resources when demand exceeds the capacity of a force or agency, regionally or nationally. PNICC has been in place since 2003. It is governed by a Stakeholders Group which is responsible for strategic direction and tasking and the Chair reports directly to the President of ACPO.[18]

[18] HMIC interview with PNICC Manager, 21 July 2009.

PNICC is central to the effective operation and implementation of mutual aid. The functions of PNICC include:

1. Ensuring that national policing is continually prepared for events that are beyond the capacity of one force area;
2. Providing forces and external partners with an immediate response to requests for additional resources; and
3. Communicating information of significance to the forces of England, Wales and Northern Ireland.[19]

ACPO National Domestic Extremism Units

Within the ACPO Terrorism and Allied Matters business area, a National Domestic Extremism Co-ordinator (NDEC) oversees three units, the National Public Order Intelligence Unit (NPOIU), the National Extremism and Tactical Co-ordination Unit (NETCU) and the National Domestic Extremism Team (NDET). These units have intelligence, prevention and enforcement functions respectively. Their core role is to provide support and advice to police forces that remain responsible for intelligence, prevention and enforcement functions within their respective local force areas. The National Domestic Extremism Co-ordinator has no executive authority or control over police forces.[20] However, his only form of oversight is by way of report to the ACPO Terrorism and Allied Matters Committee.

National Policing Improvement Agency

The National Policing Improvement Agency (NPIA) was established by the Police and Justice Act 2006, incorporating the Central Police Training and Development Authority and the Police Information Technology Organisation.[21] The 2006 Act falls short of articulating NPIA's precise function or how it fits into the tripartite relationship. The NPIA acts as a central resource to the police service, working with ACPO, the APA and the Home Office to improve the delivery of policing.[22] It is sponsored and funded by the Home Office and is represented on the National Policing Board.

The NPIA produces Home Office codes, ACPO guidance and develops and manages ACPO's various training curriculum.[23] In October 2008, the ACPO Public Order and Public Safety Working Group commissioned the NPIA to review, revise and consolidate existing public order guidance into one national guidance document defining national standards.[24]

Police complaints

A fundamental component of police accountability is the investigation of complaints against the police, both individual officers and the delivery of

[19] PNICC Annual Review Report 2008.

[20] HMIC meeting with National Domestic Extremism Co-ordinator, 25 July 2009.

[21] Police and Justice Act 2006, s.1.

[22] The NPIA Board includes representatives of ACPO, the APA, the Home Office, the Metropolitan Police Service and independent members. The Board agrees the budget and sets the strategic direction for the agency.

[23] Draft paper, Head of Home Office Public Order Unit.

[24] ACPO Status of Doctrine Projects as at June 2009.

policing services in general. The Independent Police Complaints Commission (IPCC) was established by the Police Reform Act 2002. It has the statutory duty to oversee the whole of the police complaints system and has the power to investigate complaints and conduct matters regarding the behaviour of individual police officers and staff. The IPCC investigates only the most serious matters itself. For the majority of cases, it acts as an appeal body against the outcome of a local investigation, usually conducted by the professional standards department of the relevant police force.

The IPCC is not responsible for investigating complaints regarding police operational decisions, policies and procedures or other service issues. Chief constables and police authorities are required to ensure procedures are in place for investigating and monitoring complaints concerning the conduct of individual officers or matters relating to the direction and control of the force.[25] In terms of the former, where the nature of the allegation is serious, such as an assault or corruption, the chief constable, and/or the police authority must refer the matter to the IPCC.[26]

Evaluation

The discussion of national police governance structures demonstrates a critical need for clarity in relation to the division of labour between the Home Office, ACPO and the NPIA in the development of policing standards, guidance and training and increased transparency of the roles and responsibilities of each. This will clarify the locus and degree of significance to be attached to their respective interventions in the field of public order policing.

While the role of ACPO within the tripartite structure is recognised, the legal mandate and accountability of ACPO to the Home Office is less clear. This has been publicly acknowledged by the current ACPO President, Sir Hugh Orde OBE. In his speech to ACPO Conference as incoming ACPO President in July 2009, Sir Hugh stated:

> ... I am clear that my first task is to assess where ACPO fits in to the national picture. We carry out a huge amount of work and we must be satisfied that our current structure is fit for purpose... I look forward to a serious debate on this...
>
> ACPO is the answer to delivering consistency... being the professional voice of the service and providing the leadership to the service that it deserves. Some of this seems quite straightforward, some less so. There is a clear need for a structure to drive forward at a national level policy work that delivers clear guidance on key policing disciplines for local application...

The Joint Committee on Human Rights questioned the accountability of ACPO in its July 2009 *Demonstrating Respect for Rights? Follow up* report when it asked:

[25] Police Reform Act 2002, Schedule 3. The Home Office has issued guidance to chief constables and police authorities to ensure local procedures are in place to handle direction and control complaints: Home Office Circular 19/2005.

[26] Police authorities and chief constables can voluntarily refer complaints or incidents that do not come under the automatic referral categories where there are serious concerns or exceptional circumstances that may have a significant impact on public confidence.

> ACPO is taking on an increasingly important role as an informal regulatory body for police forces – producing guidance on public order and other operational matters: to what extent is it answerable to the Home Office for the advice it provides?[27]

In evidence given to the Home Affairs Committee on the work of ACPO in October 2009, Sir Hugh Orde again candidly articulated his concerns regarding the status of ACPO and its current funding arrangements:

> … I think we need to be very clear about what ACPO is. In my judgement it is the professional voice of the Service… I have no difficulty with being a transparent organisation… we need to be clearer on how we articulate what we do… We try and draw together common policies across 44 forces so there is a consistency of approach on the key issues of policing… Different chief constables [as ACPO business leads] do this in addition to their day job…
>
> … the financing of ACPO is not satisfactory… The budget of ACPO is about £2 million to run the business and we handle money on behalf of the Home Office which goes to forces, about £17 million last year, if I remember. Very pragmatically about ten years ago to try and get some transparency on what was a band of volunteers, ACPO became a limited company. Am I comfortable being a limited company? No, I am not frankly. I think that it is an awkward mix, but at least it gave us an ability to hire people, to rent premises… and to publish accounts… I am absolutely happy to have a debate with whoever it needs to be on is there a better way of structuring ACPO… we need to step back and reflect on what it would look like and what it would cost…

HMIC considers that ACPO's co-ordinating role and operational support function for the police service should be formally recognised. ACPO has an important part to play in prioritising and supporting the development and reform of public order policing and it should be enabled to perform this role. However, ACPO's current undefined locus is no longer sustainable and there are significant questions to address regarding the status and accountability of ACPO's quasi-operational units such as NPOIU, NETCU and NDET which perform significant intelligence functions, including commissioning, gathering and analysing intelligence and collating and retaining personal data. The proper funding of ACPO also requires due consideration.

There appear to be four choices to regulating the position and status of ACPO:

(i) Continuation of ACPO's current status as a private limited company with some internal structural change to ensure a level of transparent governance.

(ii) Transfer of ACPO's quasi-operational units to a police force equipped to manage these functions on a national basis.

(iii) Adoption of a framework mirroring other professions (such as the medical profession) where a statutory body is charged with ensuring the proper standards of professional practice through the dissemination of professional

[27] Joint Committee on Human Rights, *Demonstrating Respect for Rights? Follow-up*. Twenty-second Report of Session 2008-09, 28 July 2009.

guidance, regulation of training and enforcement of discipline (eg the General Medical Council) while a separate representative association represents the professional and personal interests of its senior members across the profession (eg the British Medical Association).

(iv) Constitutional change by establishing ACPO as a statutory public body, centrally funded by and accountable to Government and tasked with providing a co-ordinating role and operational support function for the police service at the national level. ACPO would retain responsibility for its current quasi-operational units but as a public body, would be required to comply with (among others) the Data Protection Act 1998, the Human Rights Act 1998 and the Freedom of Information Act 2000.

The current ACPO President has opened the debate about the status and function of ACPO. HMIC hopes that this debate will be informed by the points raised in this report regarding national governance structures so that the position of ACPO is formalised to enable it to discharge its important co-ordinating function for the police service. This is important for achieving consistency and efficiencies not only in public order policing but across all areas of policing business. HMIC understands that following its Conference in November 2009, ACPO is currently formulating proposals regarding its status and function. ACPO is clear that its status as a private limited company cannot continue. HMIC welcomes the steps ACPO is taking.

HMIC recommends that the position and status of ACPO should be clearly defined with transparent governance and accountability structures, especially in relation to its quasi-operational role of the commissioning of intelligence and the collation and retention of data.

B. LOCAL ACCOUNTABILITY: THE ROLE OF POLICE AUTHORITIES

It is essential that chief officers are given sufficient flexibility to perform their functions and exercise their responsibilities. It is a cornerstone of modern British policing that the police, while a part of the state, are not an instrument of the executive.[28] Thus, chief constables hold responsibility for 'direction and control' of their respective police forces.[29] Given the chief constable's operational independence, central government and police authorities are reluctant to intervene in operational matters. The Select Committee on Public Accounts recognised the fine balance to be struck between operational independence and public accountability in its 1998 report, where it stated,

[28] R v Police Commissioner of the Metropolis, ex parte Blackburn [1968] 1 All ER 763.

[29] Police Act 1964, s.5(1) and Police Act 1996, s.10(1).

> influence over operational matters has been exercised with great restraint and discretion in modern times, consistent with the principle that police operations should not be, or appear to be, subject to political considerations.[30]

However, that does not mean that scrutiny of the police can be negated on a routine basis on the claim of interference with operational independence. Given the wide powers that the police have, it is important that the exercise of those powers is subject to effective accountability mechanisms.[31] In this section, we consider the role and function of police authorities in monitoring public order policing operations.

The functions of police authorities

The police authority for a force area is required to secure the maintenance of an efficient and effective police force.[32] The authority is made up of 17 members:[33] nine locally elected councilors and eight independent members (selected following local advertisement) of whom at least one is a magistrate.[34] In discharging its functions, the authority must have regard to objectives set by the Secretary of State and the local policing plan,[35] which must include a statement of the authority's priorities for the coming year and proposals for the allocation of resources.[36]

Table 6 sets out the main statutory functions of police authorities.[37]

30 *Select Committee on Public Accounts Minutes of Evidence 25 February 1998, The Statutory Basis of the Metropolitan Police* available at: http://www.publications.parliament.uk/pa/cm199798/cmselect/cmpubacc/594/8022502.htm.

31 The Patten Commission, in its report *A New Beginning for Northern Ireland*. The report of the Independent Commission on Policing for Northern Ireland (1999), drew a distinction between operational independence and operational responsibility and said: "Operational responsibility means that it is the Chief Constable's right and duty to take operational decisions, and that neither the government nor [a police authority] should have the right to direct the Chief Constable as to how to conduct an operation. It does not mean, however, that the Chief Constable's conduct of an operational matter should be exempted from inquiry or review after the event by anyone... It is important to be clear that a Chief Constable, like any public official, must be both free to exercise his or her responsibilities but also capable of being held to account afterwards for the manner in which he/she exercises them."

32 Police Act 1996, s.6(1).

33 Except the Metropolitan Police Authority and the Northern Ireland Policing Board.

34 Each authority will have a Chair and one or two Vice Chairs (elected annually by members), who are responsible for leading and setting the authority's strategic policy and direction. Detailed work of the authority will be carried out by committees responsible for particular areas of business.

35 Police Act 1996, s.6(2).

36 Ibid, s.8(1).

37 The position in Northern Ireland is different, with the establishment of the Northern Ireland Policing Board in 2001 under the provisions of the Police (Northern Ireland) Act 2000. The Policing Board has the same overall responsibility to maintain an efficient and effective police service as the police authorities in England and Wales. However, it also has the power to require the Chief Constable to report on any issue relating to the performance of his functions or those of the police force and the power to conduct an inquiry or to request another third party agency to conduct an inquiry.

Table 6: Functions performed by police authorities

The key statutory responsibilities of a police authority are as follows:
• To secure the effectiveness and efficiency of the local police force. • To hold the chief constable to account for the exercise of his functions. • To appoint the chief constable and senior police officers. • To set local policing objectives within the national framework set by the Home Secretary and publish plans and reports about the policing of its area. • To hold the policing budget and decide the levy needed to finance policing activities (except in London, where the Metropolitan Police Authority recommend the budget to the Mayor of London). • To monitor force performance against plans and budgets. • To monitor police compliance with the Human Rights Act 1998. • To oversee professional standards and complaints against the police. • To consult local people on the nature and style of policing and local policing objectives. • To work in partnership with other agencies to reduce crime and disorder.

The Association of Police Authorities

The Association of Police Authorities (APA) represents all police authorities in England, Wales and Northern Ireland. The APA was established in 1997. It has two core roles. First, it acts as the national voice of all police authorities. Second, it provides support to police authorities in securing efficient and effective policing services. It fulfils these roles through a number of means, including:

- Influencing the national policing agenda on behalf of police authorities and local communities;
- Promoting awareness of policing needs and the role and achievements of police authorities;
- Upholding and championing the principles of local accountability and policing by consent;

The role of public authorities in public order policing

Given the valid concerns regarding intrusion on chief officers' operational independence, there is understandably some hesitancy on the part of police authorities to become involved in monitoring public order policing operations. However, since the publication of *Adapting to Protest*, in July 2009, police authorities have identified a greater requirement to monitor local public order policing operations.

The majority of authorities agree that they have both an oversight role and a role in reassuring the public before, during and after a large scale public event. They recognise the need to strengthen local accountability structures and to develop a monitoring model for public order policing that is both transparent and effective. They are also alive to the

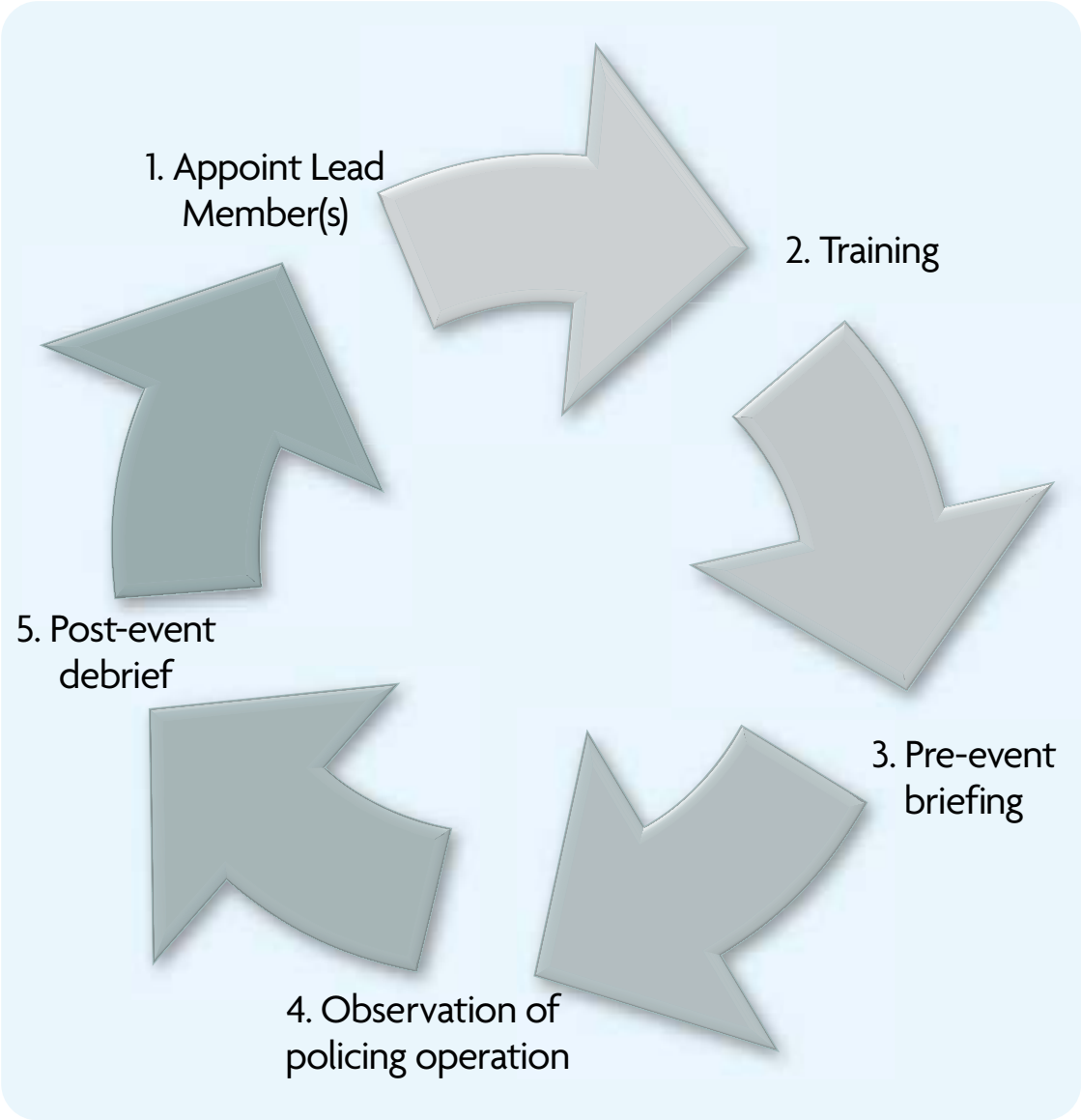
important demarcation between police operational decision-making and police authority oversight. Kent Policy Authority articulated the sentiments of a number of authorities in its statement "oversight conveys the ideal police authority approach – a focus on constructive challenge and intelligent, focused questioning".

A local accountability model for public order policing

As part of its consideration of governance and accountability structures relating to public order policing, HMIC consulted widely with police authorities. HMIC also met with the APA to discuss its views on the nature of the role of police authorities in scrutinising public order policing operations. Responses to HMIC's consultation indicate that at present, police authorities' oversight arrangements for public order policing range from posing questions to chief officers following the completion of an operation to advance briefings on the policing operation, attendance at police planning meetings, observation during the event and post-event reporting to police authorities. Appendix 5 summarises the responses of police authorities to the questions posed by HMIC.

A number of police authorities are in the process of reviewing their policies and processes on monitoring large-scale public order policing operations in their local force area to ensure appropriate pre-event and post-event scrutiny. Kent Police Authority has produced a *Toolkit* and *Aide Memoire* to assist police authorities in meeting their oversight role in relation to the policing of protest. Following is a suggested oversight model to assist police authorities in developing an effective monitoring role in relation to public order policing operations.

Figure 6: Possible Oversight Model for Public Order Policing Operations



1. Appointment of lead members for public order policing

A number of police authorities have appointed lead members whose portfolio responsibility includes public order policing, including the policing of protest.[38] The majority of lead members have agreed reporting arrangements with local force operational departments and advise their police authority in relation to the public order capability of the local force, planning for public events and issues or difficulties arising in relation to particular events or operations. HMIC considers that the appointment of a lead member is a constructive approach to oversight of this area of policing.

2. Training of (lead) members

Police authorities who responded to HMIC's consultation suggested that to ensure that oversight is informed and effective, lead members for public order need some basic training in the public order legal framework and the command structure for public order operations. This would inform members and assist them to carry out their responsibilities more effectively. The Association of Police Authorities, which is in the process of developing guidance for police authorities on monitoring public order policing, may be well placed to co-ordinate this training.

3. Pre-event briefings to police authority members

Any briefings in advance of the policing operation will have to tread the fine line between achieving an acceptable level of advance scrutiny without hampering operational flexibility and security. At the least, police authorities should be able to question force commanders about operational costs and priorities in order to be satisfied in general terms that the police response appears to be appropriate. A small number of police authorities have agreed arrangements with local forces for lead members to attend Gold Group meetings to observe discussion around strategic issues, for example "whether protests should be banned or what stipulations should be made to protect public safety."[39] This allows lead members to brief authority members in more detail but authorities must guard against perceptions of involvement in pre-event discussions which may undermine their post-event impartial scrutiny of an operation.

4. Lead members as observers

A number of police authorities have suggested real-time observation of the policing operation as part of the oversight process. The Association of Police Authorities discusses the question of observers as follows:

[38] HMIC interviews with Greater Manchester Police Authority and West Midlands Police Authority.

[39] HMIC interview with West Midlands Police Authority, Sussex Police Authority, Greater Manchester Police Authority, August 2009.

> At the crux of this review is the question of the proportionality of the police's response. The press has a significant role in communicating, or changing, people's view of this proportionality. Suspicions persist that the media's role in this is not entirely objective: that sections of the press did, or were used to, ramp up the public perceptions of the threat posed by protesters. Therefore should independent monitors (perhaps from police authorities) be deployed as observers in public protest situations...?

The majority of police authorities expressed the common view summarised by Dorset Police Authority as follows:

> We do not believe that there is a need for other independent observers, other than police authority members fulfilling their statutory role... Generally speaking these events are few and far between and the remit for governance should remain with the Police Authorities. We add that it is important that the role of the Police Authority is clear and is understood by all; the Authority cannot afford to get pulled into the management of the event and a dividing line needs to be drawn between governance and engagement; this independent line needs to be established...

A number of individual police authorities already have members who attend events as observers and subsequently provide a briefing to the full authority on their perceptions of the police operation.[40] Obviously it is important for the role and responsibilities of police authority members acting as observers to be clearly defined. But for observation to be valuable, it is critical that members have the relevant knowledge of police powers and duties and the operational decision-making structure. There is significant value in police authority members gaining an understanding of the operational pressures and constraints faced by police commanders, as well as the perceptions of protesters and the public, through observation of public order operations in real-time.

5. Post-event debrief

Post-operation reporting by the force command team to the police authority provides a critical aspect of local accountability for police action. The debrief affords police authorities the opportunity to question the command team about the nature of the operation, to review aspects of police performance and police tactics and to explore any concerns raised by the community, protesters or police officers regarding the operation. A number of police authorities already have in place agreed mechanisms for post-operation scrutiny. Greater Manchester Police Authority has spent time developing this area of its scrutiny work and has established a formal *Scrutiny Commission* to review major public order events. Its role and mandate are set out overleaf.

[40] For example, Derbyshire Police Authority's scrutiny of the BNP Red, White and Blue Rally in August 2009. Briefings and updates were provided by the police and the authority attended the event itself and had access to the command and control structure.

Case Study of Post-Event Scrutiny: Greater Manchester Police Authority Scrutiny Commission

This Commission reviews how the local force polices major events, including:

- sporting events including football matches;
- music festivals/stadium music concerts;
- community events, such as carnivals and other celebrations;
- protests, demonstrations and marches; and
- 'statutory' events, such as royal visits and party conferences.

The Commission identifies and considers the following:

1. The ingredients and key factors that contribute to successful and effective policing of major events (recognising that these may be different for different types of events).
2. The role and contribution of partnership working to successful policing of major events.
3. Public expectations and experiences with regard to the ways in which major events should be policed.
4. Human rights considerations which have an influence on major events policing and decision-making.
5. Issues around costs of, and charging for, major events policing.
6. The complexity of police planning, decision-making and delivery of major events.
7. How learning gained from the experience of policing different events is used to develop the force's approach to this area of police work.

CONCLUSION

There is a level of uncertainty regarding the proper role for police authorities in relation to public order policing operations. A more structured monitoring role for police authorities should be developed in relation to significant public order operations, supported by practical training and guidance. This should provide a practical and credible level of pre and post operation scrutiny for large-scale public order operations without intruding on police operational independence or interfering with the police responsibility to strike the right balance.

HMIC recommends that the Association of Police Authorities should develop common guidelines for police authorities on monitoring public order policing to ensure the interventions of police authorities are informed and appropriate, protecting the public interest without compromising the operational independence of chief officers.

CHAPTER 9

RECOMMENDATIONS

> The review confirms the resilience of the original British policing model, with its approachable, impartial, accountable style of policing based on minimal force. Our research suggests that if strengthened and supported, this policing model is well matched to deal with modern crowd dynamics.

Tamil protest, London Marathon 2009 – With kind permission of the Metropolitan Police Service

RECOMMENDATIONS

Recommendation 1: Use of Force

HMIC makes the following recommendations on the police use of force.

A. Principles on the use of force

The Home Office, ACPO and the NPIA should adopt an overarching set of fundamental principles on the use of force which inform all areas of policing business and is fully integrated into all policing codes of practice, policy documents, guidance manuals and training programmes. These principles or framework mechanism should provide the touchstone for all police officers throughout their careers. HMIC suggests this process incorporate the following principles which reflect the law as it currently stands:

1. Police officers, in carrying out their duties shall as far as possible apply non-violent methods before resorting to any use of force.
2. Police officers should use force only when strictly necessary and where other means remain ineffective or have no realistic chance of achieving the lawful objective.
3. Any use of force by police officers should be the minimum appropriate in the circumstances.
4. Police officers should use lethal or potentially lethal force only when absolutely necessary to protect life.
5. Police officers should plan and control operations to minimise, to the greatest extent possible, recourse to lethal force.
6. Individual officers are accountable and responsible for any use of force and must be able to justify their actions in law.

These principles entrench the fundamental legal principles of necessity, proportionality and the minimum use of force.

B. Training on the use of force

Public order training for commanders and public order units should fully incorporate training on the use of force which reflects the six principles set out above and includes:

(a) Legal tests for the use of force (reasonableness; absolute necessity); the principles of necessity and the minimum level of force and the 'continuum of the use of force' model (from communication and negotiation to escalation and back to de-escalation).

(b) Recognition that police officers have the right in law to use force in self defence or the protection of others but remain individually accountable for any use of force;

(c) Consideration of the impact of individual uses of force in a collective operational environment. Bronze commanders must consider the necessity of levels of force that can be reasonably foreseen, eg the response of individual officers to a command to disperse an unruly crowd.

(d) Existing requirements on the proper recording and reporting of all uses of force.

Training on the use of force should not be abstract but should consider the practical application of the use force in the public order context, for example, by instructing officers that the use of particular tactics, such as the edge of a shield or a baton strike to the head may constitute potentially lethal force.

C. Planning operations which may involve the use of force

Police officers responsible for the planning and control of operations where the use of force is a possibility should so far as possible plan and control them to minimise recourse to the use of force, particularly potentially lethal force.

Recommendation 2: Codification

HMIC recommends that public order policing should be codified under section 39A of the Police Act 1996 to ensure national consistency of standards, guidance, and training.

Recommendation 3: Public Order Capability

HMIC recommends that forces should consider working on a regional or cluster basis to assess their public order requirements; ensure adequate numbers of qualified public order commanders and identify how they can use their resources more effectively.

Recommendation 4: Public Order Training

HMIC recommends that the Association of Chief Police Officers and the National Policing Improvement Agency work together to identify how best to achieve consistency of content and accreditation of public order training programmes across the police service. The following elements are important considerations to include in the public order training curriculum to achieve a consistent approach to police action:

(a) Explicit training on the public order legal framework, including:

(i) The starting point of facilitating peaceful protest.

(ii) Police public order powers.

(iii) Human rights obligations of police.

(b) Integrated training on the use of force, including:

(i) Legal tests for the use of force (reasonableness; absolute necessity).

(ii) Principles of necessity and minimum level of force.

(iii) Continuum of the use of force model.

(iv) Individual uses of force in a collective policing environment.

(c) A clear and definitive link between officer safety training (OST) and all levels of public order training (generalist, specialist and command) so that officers are well versed in the minimum use of force and necessity principles and the continuum of the use of force model.

(d) Comprehensive scenario and contingency planning: public order commanders must be competent to routinely identify and assess a range of possible operational scenarios and manage a variety of outcomes.

(e) Consideration of the relationship between crowd dynamics and police action and tactics and the complexity of crowd membership and development of a more discriminating approach to crowd management: dealing with individuals rather than an homogeneous mass.

(f) Consideration of appropriate and proportionate police tactics and levels of force in relation to a range of scenarios, for example:

(i) Mass peaceful protest on a national basis, eg a Climate Camp;

(ii) Protest and counter-protest in contested space.

(iii) Sporadic, disruptive activities with low levels of criminal damage.

(iv) Running disorder: looting and criminal damage to property.

(v) Small determined group attacks on iconic sites such as statues.

(vi) Attempted mass trespass of private land housing critical national infrastructure, such as power stations.

(vii) Protests resulting in serious violent disorder.

Recommendation 5: Public Order Command Training

HMIC recommends that public order command training should be significantly enhanced to provide explicit guidance to officers on:

(a) communication strategies before, during and after public order policing events which should include the following:

(i) A community engagement strategy should be prepared at the early stages of planning for a public order operation, identifying key stakeholders or influencers within the protest community, the wider community and any group(s) opposed to the protest event. Police commanders should seek the views, expectations and

concerns of all key stakeholders and affected communities regarding the event and the related policing operation.

(ii) No promises should be made by police officers engaging with protest communities which are unsustainable or give unfair advantage or accommodation to a particular protest group, or are contrary to law. All police engagement should accord with the standards of professional behaviour set out in the Police (Conduct) Regulations 2008, in particular, the principles of confidentiality, equality, honesty and integrity, as well as the Human Rights Act 1998.

(iii) A no surprises communication philosophy should be adopted: ongoing communication should be maintained with all relevant stakeholders throughout the operational planning stages and during the event itself. Protesters and the public should be made aware of likely police action in order to make informed choices and decisions.

(iv) A media strategy should be developed in advance of the operation. Relevant media personnel should be invited to a briefing to ensure an accurate understanding of the police operational approach and style.

(v) A clear audit trail should be maintained of all communications with the protest community, the media and the wider public as part of the Event Policy file.

(vi) Following the operation, the community engagement and media strategies – and actions and decisions taken in relation to both – should be reviewed to identify learning for future events.

(b) understanding and managing crowd dynamics which should include the following:

(i) Prior to a crowd event, police should seek to inform themselves about the culture and general conduct of particular protest crowds. Planning for an operation should include gathering information on the underlying intent of the protest group.

(ii) The information regarding the general protest culture of the group should be considered in the local context and an assessment made as to how the policing operation can be designed to facilitate the legitimate intentions of the protesters.

(iii) Police strategy or tactics should not be oriented exclusively towards the control of the crowd through the threat or use of force but should ensure the effective facilitation of the legitimate intentions underpinning the protesters' action. This should be effectively communicated to protesters, together with an indication of what conduct will and will not be tolerated by the police.

(iv) Initial contact with the protest group at the commencement of the policing operation should be characterised by low impact visibility, information gathering and

monitoring. Police on the ground should engage with crowd members to gather information about their intentions, demeanour, concerns and sensibilities.

(v) Depending on the nature of the risk, escalation in police deployment may be necessary. A graduated tactical approach should be characterised by firm but targeted communication of tolerance limits and some increased visibility of the police capability to use force. Critically, police should seek to communicate to those posing the risk that they are creating the potential for police action.

(vi) Any targeted intervention by police should be informed by an accurate intelligence assessment about the source of the risk or factors causing the problem and ensure that any police response accurately reflects and is proportionate to the actual level and sources of risk.

Recommendation 6: Support for the British Policing Model

HMIC recommends that the active support of the Home Office is required to strengthen and sustain the British model of policing and ensure the continuing evolution of public order policing within a workable legislative framework.

Recommendation 7: Guidance on Banning Orders

HMIC recommends that the Home Office should provide guidance on the circumstances in which the Secretary of State is likely to consent to an application to ban a procession or a certain type of processions under section 13 of the Public Order Act 1986.

Recommendation 8: Guidance on use of police powers to gather personal data of protesters

HMIC recommends that the Home Office should clarify:

(a) The scope and application of section 50 of the Police Reform Act 2002 by the police.

(b) The legal framework for the use of overt photography by police during public order operations and provide guidance on the collation and retention of photographic images by police forces and other policing bodies.

Recommendation 9: Monitoring use of stop and search powers

HMIC recommends that chief officers should monitor the use of stop and search powers during public order operations in their force area to ensure:

(a) stop and search is conducted under the correct legislation and in line with force policy; and

(b) all officers (including those providing mutual support to the local force) are adequately briefed on, and understand, the legal powers under which they are exercising their stop and search powers.

Recommendation 10: Clarification of the role of Forward Intelligence Teams

HMIC recommends that the Association of Chief Police Officers and the National Policing Improvement Agency should clarify the precise role of Forward Intelligence Teams (FITs). Public order training should include guidance on the function of FITs and the specific tactical parameters under which FITs should be deployed in public order operations.

Recommendation 11: Accountability of ACPO

HMIC recommends that the position and status of the Association of Chief Police Officers should be clearly defined with transparent governance and accountability structures, especially in relation to its quasi-operational role of the commissioning of intelligence and the collation and retention of data.

Recommendation 12: Common Guideline for Police Authorities

HMIC recommends that the Association of Police Authorities should develop common guidelines for police authorities on monitoring public order policing to ensure the interventions of police authorities are informed and appropriate, protecting the public interest without compromising the operational independence of chief officers.

APPENDICES

Hunger march in Hyde Park, London 1934 – Copyright Getty Images

APPENDIX 1

REVIEWS OF PUBLIC ORDER POLICING OPERATIONS 1974-2009

This review of policing protest is the latest in a long series of reviews into public order policing. Many of the previous reviews were initiated in response to public concerns regarding the policing of particular events or police management of serious public disorder. Part A of Appendix 1 analyses the findings and recommendations of several significant reviews into the policing of protest and public order over the last 35 years against findings and recommendations made in *Adapting to Protest*. This exercise highlights that a number of key lessons have been identified time and again by review bodies but remain to be fully implemented by the police. Part B of Appendix 1 provides a summary of the events or circumstances which led to each of the historical reviews discussed.

A. CORE THEMES OF REVIEWS 1974-2009

Policing by Consent

The notion of the 'British way' of policing by consent was discussed in *Adapting to Protest.*[1] It was also highlighted in the 1980 Joint Review, which recommended that:

> The policing of public order should continue to be based on the concept of policing the community by consent. The introduction of deliberately aggressive police methods should, therefore, be rejected.[2]

This notion was further emphasised in Lord Scarman's report into the Brixton disorders of 1981, when he commented that "above all the central theme in all training must be the need for the police to secure the consent and support of the public."[3]

Demonstrate Explicit Consideration of the Facilitation of Peaceful Protest[4]

Lord Scarman recognised this primary starting point for policing protest as early as 1974 during his inquiry into the Red Lion Square disorders. The inquiry report states:

> Amongst our fundamental human rights there are, without doubt, the rights of peaceful assembly and public protest and the right to public order and tranquility. Civilised living collapses – it is obvious – if public protest becomes violent protest or public order degenerates into the quietism imposed by successful oppression. But the problem is more complex than a choice between two extremes – one, a right to protest whenever and wherever you will and the other, a right to continuous calm

1 See for example pp.5-6 of the Executive Summary, HMIC Report, *Adapting to Protest* (July 2009).

2 Home Office. 1980. *Review of arrangements for handling spontaneous disorder*. London: HMSO, p.6.

3 Scarman, L 1981. *The Brixton Disorders (10-12 April 1981)*. London: Penguin, p.133-134.

4 HMIC Report, *Adapting to Protest* (July 2009), Recommendation 1.

> upon our streets unruffled by the noise and obstructive pressure of the protesting procession. A balance has to be struck, a compromise found that will accommodate the exercise of the right to protest within a framework of public order which enables ordinary citizens, who are not protesting to go about their business and pleasure without obstruction of inconvenience.[5]

This central dilemma of balancing the rights of protesters and other citizens with the duty to protect people and property from the threat or harm of injury was also recognised in the 1991 report by the Metropolitan Police Service (MPS) into the Poll Tax riot at Trafalgar Square. The report stated:

> A democratic society presupposes the right of the individual to peacefully protest on any topic",[6] while recognising that "the inescapable conclusion is that the citizens of London paid dearly for preserving the freedom to demonstrate in Central London on 31 March 1990.[7]

Seek to Improve Dialogue with Protest Groups in Advance[8]

The need for better communication between police and protesters was a central recommendation of the Scarman inquiry into the Red Lion Square disorders (1974). The inquiry report stated:

> Planning discussions with organisers are valuable, almost to the point of indispensability… agreement is the surest guarantee of good order.[9]

Communication was also highlighted in the South Yorkshire Police report of policing the coal industry dispute in 1984/85 where it was acknowledged that "If police and pickets can reach an understanding as to what each has in mind there will be less risk of public disorder."[10]

Develop a Strategy to Improve Communication with the Media[11]

Police communication with the media has been referenced in at least three reviews over the last 25 years:

(i) the MPS report into Civil Disturbances 1981-85 recognised "the value of having a senior ranking officer as the official police spokesman at serious disturbances;"[12]

5 Scarman, L 1974. *Report of inquiry into the Red Lion Square Disorders of 15 June 1974*. Cmmd 59:5, London: HMSO, p.1-2.

6 Metcalfe, J 1991. *Public order debriefing: Trafalgar Square riot*, London: unpublished, Metropolitan Police, p.11.

7 Metcalfe, J 1991. *Public order debriefing: Trafalgar Square riot*, London: unpublished, Metropolitan Police, Preface.

8 HMIC Report, *Adapting to Protest* (July 2009), Recommendation 2.

9 Scarman, L 1974. *Report of inquiry into the Red Lion Square Disorders of 15 June 1974*. Cmmd 59:5, London: HMSO, p.39.

10 South Yorkshire Police Authority. 1985. *Policing Policy during the strike of the National Union of Mineworkers (Yorkshire Area), 1984 – Report of an Inquiry by the Special Sub-Committee of the South Yorkshire Police Committee.* Sheffield: South Yorkshire Police. p.21.

11 HMIC Report, *Adapting to Protest* (July 2009), Recommendation 3.

12 Metropolitan Police. 1986. *Public Order Review: Civil Disturbances 1981-1985*, London: Metropolitan Police, p.42.

(ii) the 1987 report into the News International/Print Workers dispute observed a worsening relationship as "London's police were frittering away the goodwill of the media in acts of thoughtlessness and hooliganism;"[13] and

(iii) the MPS report into disorder during the Anti-Criminal Justice Bill Protest in October 1994 recommended that "at appropriate events, a senior officer should be appointed whose sole task is to work with the Directorate of Public Affairs staff to meet the demands of the media."[14]

Modern technology and 24 hour media reporting has transformed the way the police and the media engage. The scale of the challenge of developing an effective media strategy has arguably increased for the police but the underlying issue of communicating effectively remains largely unchanged.

No Surprises Approach to Public Order Policing[15]

Previous reviews do not make specific reference to the tactic of containment. However, the review reports do make a number of relevant recommendations in terms of the application of tactics more generally. Lord Scarman's report into the Red Lion Square disorders discusses the 'no surprises' approach advocated in Recommendation 5 of the HMIC Report. Lord Scarman states:

"I think it would be a good general principle that where they propose to take action against a static crowd, the police should first give a warning; only exceptionally should no warning be given."[16]

The London Strategic Policy Unit (LSPU) report into policing the News International/Print Workers dispute at Wapping in 1986/87 was critical that "mounted police were deployed without warning."[17]

Access to Information[18]

Access to information for protesters and the public has been recognised as problematic on many occasions in past reviews. The MPS report into the Poll Tax riot at Trafalgar Square (1991) noted that communication with the public was poor and "more research into effective communication with large crowds is necessary."[19] In 2004, the IPCC recommended in their report into the

[13] Police Monitoring and Research Group. 1987. *Policing Wapping: An account of the dispute 1986/7, Briefing Paper No. 3*. London: London Strategic Policy Unit, p.39.

[14] Kendrick, D 1995. *De-brief Report into the Disorder in Hyde Park and Park Lane on Sunday 9 October 1994*, London: Metropolitan Police, p.27.

[15] HMIC Report, *Adapting to Protest* (July 2009), Recommendation 5.

[16] Scarman, L 1974. *Report of inquiry into the Red Lion Square Disorders of 15 June 1974*. Cmmd 59:5, London: HMSO, p.40.

[17] Police Monitoring and Research Group. 1987. *Policing Wapping: An account of the dispute 1986/7, Briefing Paper No. 3*. London: London Strategic Policy Unit, p.18.

[18] HMIC Report, *Adapting to Protest* (July 2009), Recommendation 7.

[19] Metcalfe, J 1991. *Public order debriefing: Trafalgar Square riot*, London: unpublished, Metropolitan Police, p.14.

policing of the Countryside Alliance pro-hunting demonstration that "consideration should be given to the use of portable matrix information boards with large-scale displays to inform of the risk of crushing and the communication of police orders".[20]

Impact of Police Action on Crowd Behaviour

Across three decades of reviews into public order policing, the impact of police action on crowd behaviour is a recurring theme of recommendations. Latest research into crowd dynamics discussed in Chapter 4 of this report links perceived legitimacy of police tactics and the proportionality of force deployed with the scale of disorder experienced. In other words, police action can precipitate further disorder and increase as well as decrease, threat levels. Experience of officers and those tasked to review incidents of significant disorder supports this theory. In 1974, Scarman recommended:

> We are to avoid riot squads and riot equipment, both of which when they appear increase tension, alarm and anger"[21] and went on to note that "police methods are designed to limit the degree of force that the police can use in a public order situation... The aim and basis of this policy is to prevent and forestall trouble, and to minimise disorder when it occurs.[22]

The South Yorkshire Police report of policing the coal industry dispute in 1984/85 suggested:

> In the same way that a large number of police can produce unrest, so can the use of protective equipment and horses. Their appearance causes apprehension and fear.[23]

The enquiry suggested a connection between police appearance and violent reaction from the crowd:

> A police officer thus protected, may be regarded as a legitimate target by the stone-thrower, when the 'ordinary bobby' would not be.[24]

The 1980 joint review by the Home Office, HMIC, MPS and ACPO into arrangements for handling spontaneous disorder, following the disturbances in the St Paul's area of Bristol (the 1980 Joint Review), also recommended that all police officers must receive common training in public order and that "this should include a knowledge of crowd behaviour."[25]

[20] Independent Police Complaints Commission. 2005. *IPCC report into the policing of the Countryside Alliance Pro-Hunting Demonstration on Wednesday 15 September 2004 at Parliament Square, London.* London: IPCC, p.50.

[21] Scarman, L 1974. *Report of inquiry into the Red Lion Square Disorders of 15 June 1974.* Cmmd 59:5, London: HMSO, p.40.

[22] Ibid.

[23] South Yorkshire Police Authority. 1985. *Policing Policy during the strike of the National Union of Mineworkers (Yorkshire Area), 1984 – Report of an Inquiry by the Special Sub-Committee of the South Yorkshire Police Committee.* Sheffield: South Yorkshire Police, p.14.

[24] Ibid, p.14

[25] Home Office. 1980. *Review of arrangements for handling spontaneous disorder*. London: HMSO, p.4.

Use of Force[26]

Police use of force can lose the consent of the public rapidly if such force is used inappropriately or disproportionately. The MPS report into disorder during the Anti-Criminal Justice Bill Protest in October 1994 made the significant point that:

> the use of tactical withdrawal can be an effective manoeuvre in many disorder situations. The apparent cultural abhorrence of this for many officers must be addressed at training.[27]

A number of reports comment on disproportionate use of force. The reviews indicate that criticism levelled at the police is as much based on perceptions of the indiscriminate nature of the policing response and use of force as they are on the actual level of force used. The National Council for Civil Liberties report into the Anti-Racism Demonstration in Southall in 1979 reported:

> In the Uxbridge road at about 6.20pm, there was a deliberate attempt by people to break through the police cordon, in the course of which a number of police officers were injured. But the dispersal of the crowd by the police involved excessive and unnecessary violence.[28]

The report into public disorder on Merseyside in the summer of 1981 recognised the subsequent criticisms made against the police which included "rigid, aggressive policing."[29] It recommended Merseyside Police "take such measures to prevent a police over-reaction to incidents."[30]

In the report into the policing of the Coal Industry Dispute 1984/85, the sub-committee found:

> Police objectives in South Yorkshire during the dispute have been to match strength with strength... There have been a number of complaints of over-reaction by the police allegedly leading to increased violence, and it is apparent that at times excessive numbers of police have been deployed, and protective equipment and horses used before significant disorder has occurred.[31]

The LSPU report into policing the News International/Print Workers dispute at Wapping in 1986/87 suggested that "Police aimed to disperse and incapacitate people rather than arrest those involved in violence."[32]

26 Discussed in Chapter 6 of HMIC Report, *Adapting to Protest* (July 2009).

27 Kendrick, D 1995. *De-brief Report into the Disorder in Hyde Park and Park Lane on Sunday 9 October 1994*, London: Metropolitan Police, p.21.

28 National Council for Civil Liberties. 1980. *Southall: 23 April 1979: Report of the Unofficial Committee of Enquiry*. London NCCL. p.181.

29 Oxford, K 1981. *Public Disorder on Merseyside, July-August 1981: report to the Merseyside Police Committee by the Chief Constable of Merseyside* Liverpool: Merseyside Constabulary, p.53.

30 Ibid.

31 South Yorkshire Police Authority. 1985. *Policing Policy during the strike of the National Union of Mineworkers (Yorkshire Area), 1984 – Report of an Inquiry by the Special Sub-Committee of the South Yorkshire Police Committee*. Sheffield: South Yorkshire Police, p.14.

32 Police Monitoring and Research Group. 1987. *Policing Wapping: An account of the dispute 1986/7, Briefing Paper No. 3*. London: London Strategic Policy Unit, p.41.

Officer Identification[33]

The requirement for officers to wear numerals or other clear identification has been highlighted on at least three other occasions over the last 25 years. The South Yorkshire Police report into policing the coal industry dispute in 1984/85 stated:

> all police officers should be required clearly to display their force and numbers at all times on their outermost clothing.[34]

The LSPU report into policing the News International/Print Workers dispute at Wapping in 1986/87 found:

> ...complaints of police officers missing identification numbers from their uniforms. Some were alleged to have masking tape over them, others appeared to have covered them with boot polish. Observers noted epaulettes undone so that numbers were covered up.[35]

More recently, the IPCC 2004 report into policing of the Countryside Alliance protest found:

> the instruction for officers attending the demonstration... was that they would wear yellow jackets with black epaulettes containing their numbers. There were clear examples recorded on CCTV of some officers ignoring this instruction.[36]

Post-Operation Debriefs and Organisational Learning

Debriefs have been identified time and again as a useful method of enhancing organisational learning after a large scale public order operation. In 1974, Lord Scarman argued that:

> Following major demonstrations senior officers should consider whether there are any lessons to be learnt for the future. Public inquiries cannot, and should not, be held after every disorderly demonstration; police officers concerned with public order need to develop a continuing capacity for analysing, assessing and learning from their own operations.[37]

The effectiveness of the police as a service to learn from mistakes post-event is brought into question through the repetition of key themes and recommendations across the years. Commander Kendrick, who led the review into the policing of the Anti-Criminal Justice Bill Protest in 1995 made the following statement that is as apt today as it was fourteen years ago:

> It is a chastening fact that this report is the latest in a long line of debrief reports into serious disorder. Many of the issues identified here are not new and have been addressed by previous recommendations. There remains a need

33 HMIC Report, *Adapting to Protest* (July 2009), Recommendation 12.

34 South Yorkshire Police Authority. 1985. *Policing Policy during the strike of the National Union of Mineworkers (Yorkshire Area), 1984 – Report of an Inquiry by the Special Sub-Committee of the South Yorkshire Police Committee.* Sheffield: South Yorkshire Police, p.15.

35 Police Monitoring and Research Group. 1987. *Policing Wapping: An account of the dispute 1986/7, Briefing Paper No. 3.* London: London Strategic Policy Unit, p.41.

36 Independent Police Complaints Commission, 2005, *IPCC report into the policing of the Countryside Alliance Pro-Hunting Demonstration on Wednesday 15 September 2004 at Parliament Square, London.* London: IPCC, p.51.

37 Scarman, L 1974. *Report of inquiry into the Red Lion Square Disorders of 15 June 1974.* Cmmd 59:5, London: HMSO, p.42.

> to create a system to ensure that the lessons from every event are collated, evaluated and actioned speedily and effectively.[38]

Police Training[39]

The majority of reviews made recommendations focused on improving training. Within the sample of reports analysed by HMIC, more than 40 separate recommendations were made relating to training or accreditation. The HMIC recommendation that the MPS and ACPO undertake a review of current public order training, including an examination of tactics, such as the use of shields and batons,[40] has been repeated a number of times before. Two previous reviews of public order policing are particularly relevant. First, the LSPU report into policing the News International/ Print Workers dispute at Wapping in 1986/87 identified baton (truncheon) tactics as a cause for concern:

> Police aimed to disperse and incapacitate people rather than arrest those involved in violence... Many demonstrators were struck by police on the head, rather than the arms, legs and torso... the print workers stress that the majority of injuries to pickets were contusions to the head, mainly caused by truncheons.[41]

Second, the IPCC 2005 report into the policing of the Countryside Alliance pro-hunting demonstration made a direct recommendation for training on the use of force, stating:

> The MPS Public Order Training Department as a matter of urgency review the tactical options available to police when subject to attack at a police line with a view to minimising the risk of physical force being used by individual police officers and only as a last resort with consideration being given to all equipment now available.[42]

Officer Resilience[43]

The issue of officer resilience was highlighted in at least three previous reports. The MPS report into Civil Disturbances 1981-85, stated:

> The effects of stress on officers arising from civil disturbances continue to be recognised as a common result of exposure to danger and/or long hours of duty and that this aspect is an important part of command responsibility... Ideally no officer should be engaged on any incident beyond the period of 12 hours.[44]

38 Kendrick, D 1995. De-brief Report into the Disorder in Hyde Park and Park Lane on Sunday 9 October 1994, London: Metropolitan Police, Foreword.

39 HMIC Report, *Adapting to Protest* (July 2009), Chapter 6.

40 Ibid, Recommendation 10.

41 Police Monitoring and Research Group. 1987. *Policing Wapping: An account of the dispute 1986/7, Briefing Paper No. 3*. London: London Strategic Policy Unit, p.19.

42 Independent Police Complaints Commission, 2005, *IPCC report into the policing of the Countryside Alliance Pro-Hunting Demonstration on Wednesday 15 September 2004 at Parliament Square, London*. London: IPCC, p.50.

43 HMIC, *Adapting to Protest* (July 2009), Chapter 4. p.38.

44 Metropolitan Police 1986 *Public Order Review: Civil Disturbances 1981-1985*. London: Metropolitan Police, p.42.

A further dimension of officer resilience was recognised in the 1991 MPS report into the Poll Tax riot at Trafalgar Square, which stated:

> The traumatic effect of being involved in prolonged riots was very noticeable when officers were interviewed... post-riot welfare and counselling needs to be further examined and developed within a structured support system.[45]

Comparison of Review Recommendations

Table 1 identifies the reports into public order policing operations over the last three decades which addressed the same recommendations as those made in *Adapting to Protest*.

[45] Metcalfe, J. 1991 *Public order debriefing: Trafalgar Square riot*, London: unpublished, Metropolitan Police, p.19.

Table 1: Comparison of Review Recommendations for Public Order Events 1974-2009 against HMIC recommendations

Event	Facilitation of Protest	Communication with Protestors	Communication with the Media	Use of Force	Wearing of Numerals	Officer Welfare and Resilience	Organisational Learning	Training
Red Lion Square Disorders – 1974	✓	✓		✓			✓	✓
Anti-Racism Demonstration – Southall – 1979	✓	✓	✓	✓				
Disturbances in St. Paul's – 1980	✓	✓						✓
The Brixton Disorders – 1981		✓		✓			✓	✓
Handsworth disorder – 1981				✓				
Public disorder – 1981		✓		✓				✓
Trafalgar Square – 1982		✓						
Coal Industry Dispute – 1984-1985		✓	✓	✓	✓	✓		✓
Handsworth/Lozells Disturbances – 1985		✓						✓
Broadwater Farm – 1985		✓		✓				✓
Brixton and Tottenham 1981-1985			✓			✓		✓
News International Dispute – 1986-1987			✓	✓	✓			
National Public Order Forward Planning Unit Review – 1990								✓
Poll Tax – Trafalgar Square Riot – 1990		✓	✓			✓	✓	✓
Anti criminal justice bill protest – 1994		✓	✓	✓		✓		✓
Public Disorder, Bradford – 1995		✓						

Table 1: Comparison of Review Recommendations for Public Order Events 1974-2009 against HMIC recommendations *(continued)*

Event	Facilitation of Protest	Communication with Protestors	Communication with the Media	Use of Force	Wearing of Numerals	Officer Welfare and Resilience	Organisational Learning	Training
HMIC Thematic Inspection – Public Order Policing								✓
Carnival Against Capitalism – 1999				✓			✓	
Mayday Protests – 2000-2001	✓						✓	✓
Community Disorder – Bradford, Oldham, Leeds, Burnley, Stoke-on-Trent – 2001		✓						✓
Countryside Alliance – Pro-Hunting demonstration – 2004				✓	✓		✓	✓
BNP and anti-racism demonstrations – 2008		✓	✓					✓
Lindsay Oil Refinery – 2009	✓						✓	

B. SUMMARY OF REVIEWS OF PUBLIC ORDER POLICING OPERATIONS 1974-2009

1. Red Lion Square disorders – 15 June 1974[46]

On 15 June 1974, a National Front march through London was organised, culminating at Red Lion Square, protesting against the government's decision to allow illegal immigrants to remain and bring their relatives into the country. On learning of the march, a left wing political group planned an alternative march to take place on the same day, also finishing at Red Lion Square.

On the day, violent clashes occurred between the two groups with police in between attempting to maintain order. One of those present, a student at Warwick University, died, 46 police officers were injured, and at least 12 members of the public were injured. There was media criticism following the event of the use of mounted officers and officers from the Metropolitan Police's Special Patrol Group.

Nature of Review

On 28 June 1974 the Right Honourable Lord Justice Scarman was asked by the then Home Secretary, Roy Jenkins, to "review the events and actions which led to the disorder… and to consider whether any lessons may be learnt for the better maintenance of public order when demonstrations take place." The inquiry was appointed under section 32 of the Police Act 1964 and was held in public.

2. Anti-Racism Demonstration, Southall – 23 April 1979[47]

On 22 April 1979, a march was organised to protest against the National Front meeting to be held at the town hall in Southall on the following day. 2,000-2,500 people took part, policed by 1,200 police officers. There was no serious disorder on this occasion. The following day, in the build up to the National Front meeting, there was another demonstration. This time around 3,000 demonstrators took part with 2,756 police officers being deployed. This event experienced a different order of violence and disorder to the previous day and resulted in 345 arrests being made and 97 police officers being injured. 64 members of the public were injured, and one of them, Mr. Blair Peach, subsequently died.

Nature of Review

An unofficial enquiry was conducted by The National Council for Civil Liberties (more commonly known as Liberty). The inquiry was chaired by Professor Michael Dummett (University of Oxford). Included in the report is the full speech made to the House of Commons by the then Home Secretary, along with a memorandum produced from the report to him by the Commissioner of the MPS.

[46] Scarman, L 1974, *Report of inquiry into the Red Lion Square Disorders of 15 June 1974* Cmmd 59:5, London: HMSO.

[47] National Council for Civil Liberties. 1980, *Southall: 23 April 1979: Report of the Unofficial Committee of Enquiry*, London NCCL. Dummett, M. 1980. *The death of Blair Peach: Supplementary report of the unofficial committee of inquiry*, London: National Council for Civil Liberties.

3. Disturbances in St Paul's, Bristol – 2 April 1980[48]

On 2 April 1980 serious disorder occurred in the St. Paul's area of Bristol. The disorder occurred following the execution of a search warrant at the "Black and White" café during which a crowd gathered outside. Before long a crowd of several hundred had gathered and of these about 150 youths, both black and white, began throwing missiles at police officers. The violence escalated and soon was beyond the capabilities of the officers present. The decision was taken to withdraw and await reinforcements from neighbouring constabularies. Following the arrival of around 600 officers the police systematically deployed teams across the area to prevent further disorder and damage. The cause of the tension was attributed both to poor race relations and the scale of poverty and deprivation experienced by the local community at the time.

Nature of Review

Following the disorder an internal review was conducted by the Chief Constable and presented to the Home Secretary, which was subsequently presented to parliament. In the statement to the House of Commons on 28 April 1980 the Home Secretary announced a joint review by the Home Office, HMIC, MPS and ACPO into the arrangements for handling spontaneous disorder. This review was completed in August 1980.

4. The Brixton disorders – 10-12 April 1981[49]

During the weekend of 10-12 April 1981 a few hundred young people – most, but not all of them, black – gathered in the streets of Brixton. They attacked the police with stone, bricks, iron bars and petrol bombs. Fortunately no one was killed, but on that one night 279 policemen were injured, 45 members of public are known to have been injured (the number was almost certainly greater), a large number of police and other vehicles were damaged or destroyed and 28 buildings were also damaged or destroyed. Alongside this, many people took the opportunity provided by the commitment of police officers to undertake widespread looting of the shopping centre in Brixton.

Nature of Review

On 14 April 1981, the Right Honourable Lord Justice Scarman was asked by the then Home Secretary, William Whitelaw, to "inquire urgently into the serious disorder in Brixton on 10-12 April 1981 and to report with the power to make recommendations." The inquiry was appointed under section 32 of the Police Act 1964 and was held in public.

[48] Chief Constable of Avon and Somerset. 1980, *The disturbances in the St. Paul's Area of Bristol, 2 April 1980*. Unpublished report to the Home Secretary.

[49] Scarman, L 1981, *The Brixton Disorders (10-12 April 1981)*. Greater London Council. 1982. *Policing London – The Policing Aspects of Lord Scarman's Report on the Brixton Disorders*. London: Greater London Council.

5. Public disorder in Merseyside – July-August 1981[50]

Between 4 July and 15 August 1981, a series of public disturbances occurred in the Toxteth area of Liverpool. The disturbances resulted in major damage and injury and necessitated the use of CS gas by police officers for the first time on the mainland. Subsequently, damage to (or theft of) property was estimated at some £3,314,285. Some 214 police vehicles were damaged and 781 police officers were injured. One member of the public died after being struck by a police vehicle. The focus of aggression against the police was the application of the power to stop and search those suspected to be in possession of stolen property.

Nature of Review

Following the disorder, a report to the Merseyside Police Committee was made by the Chief Constable on 18 September 1981.

6. Coal Industry Dispute, South Yorkshire – 1984-1985[51]

The industrial dispute between the National Union of Mineworkers (NUM) and the National Coal Board (NCB) lasted from 5 March 1984 until 9 March 1985, following the decision of the NCB to close a number of collieries. Initially the dispute concentrated on picketing those collieries that refused to take strike action, however this soon spread across all collieries, targeting those who opted to cross the picket line and continue to work. Throughout the period there were violent clashes between police and picket lines and between striking and working miners.

In South Yorkshire alone it resulted in 1,701 persons being arrested. Some 859 police officers were injured as were over 220 members of the public. The National Coal Board reported criminal damage and theft of property amounting to £1,056,124 and the cost of policing the dispute was in excess of £51 million.

Nature of Review

The miners' strike affected a large number of force areas, but the report that has been reviewed concentrates on the response of South Yorkshire Police to the dispute. The report was compiled internally and submitted by the Chief Constable to the county police committee and includes the findings of a sub-committee of the police committee formed to examine the policing of the dispute.

7. Violent Disorder in Brixton and Tottenham – 1981-1985[52]

Between 1981 and 1985, a series of violent clashes occurred between police and residents of Brixton and Tottenham. A report was commissioned by the MPS to

[50] Oxford, K 1981. *Public Disorder on Merseyside, July-August 1981: report to the Merseyside Police Committee by the Chief Constable of Merseyside*, Liverpool: Merseyside Constabulary.

[51] South Yorkshire Police. 1985, *Policing the coal industry dispute in South Yorkshire*, Sheffield: South Yorkshire Police.

[52] Metropolitan Police 1986. *Public Order Review: Civil Disturbances 1981-1985*, London: Metropolitan Police.

examine the following areas of concern in respect of the police response to the events:

- An apparent misconception about the relationship between law enforcement and the sensitive and discretionary aspects of community policing;
- Gathering, evaluation and dissemination of information;
- Effectiveness of current mobilisation plans;
- Control and deployment, the command structure and means of communication;
- Effectiveness of support services;
- Suitability and availability of equipment;
- Training in general, but especially at chief inspector rank and above.

Nature of Review

The review group was established by the MPS Commissioner to determine current force policy, strategy, tactics, equipment and training in cases of serious spontaneous disorder and to comment upon any organisational issues arising for the service.

8. News International Dispute, Wapping – 1986-1987[53]

In January 1986, a dispute arose between News International and print workers unions. The dispute, which saw regular demonstrations in Wapping, ran until February 1987. Police tactics, perceived as aggressive, were criticised. It was reported by unions that away from the picket lines police had a civilised and sympathetic attitude and some agreements were made around communication and acceptable behaviour. However, even after this police behaviour was described as unpredictable, in particular, they did not allow people to leave scenes of violence and dangerously charged into packed crowds in confined space.

Nature of Review

The London Strategic Policy Unit (LSPU) was set up by nine London Boroughs to carry through some of the policy initiatives of the Greater London Council. The Police Monitoring and Research Group was one of seven LSPU policy groups. It published regular information on developments in policy, the law and public order.

9. Poll Tax Demonstration, Trafalgar Square Riot – 31 March 1990[54]

On 31 March 1990, a march comprising around 25,000 demonstrators commenced from Kennington Park towards Trafalgar Square to demonstrate against the introduction of Poll Tax. The mood was generally high-spirited with isolated pockets of disorder. When the head of the march reached Trafalgar Square the end of the march was still in the park. The mood in Whitehall (at Downing Street) worsened and crowd control measures were implemented.

[53] Police Monitoring and Research Group. 1987, *Policing Wapping: An account of the dispute 1986/7, Briefing Paper No. 3*, London: London Strategic Policy Unit.

[54] Metcalfe, J 1991 *Public order debriefing: Trafalgar Square riot*, London: unpublished, Metropolitan Police.

From this point, violent confrontations between police and demonstrators took place at various locations in the West End up to, and past midnight. Some 542 police officers were injured.

Nature of Review

The review was commissioned by the MPS and led by a Deputy Assistant Commissioner. The aim of the review was to make recommendations for policing similar events. Questions were asked about planning, briefing, initial deployment, incidents and police operations before, during and after disorder broke out, injuries, equipment, communications, transport, welfare and support.

10. Anti Criminal Justice Bill protest, Hyde Park – 9 October 1994[55]

On Sunday 9 October 1994, a march and rally was organised by The Coalition Against the Criminal Justice Bill. The assembly for the march was at Victoria Embankment and was due to proceed via Trafalgar Square to Hyde Park. The organisers expected an attendance of 40,000, of which 20,000 materialised on the day. The policing strength was 120 Inspectors, 320 Sergeants and 2,394 Constables.

Due to an insufficient number of stewards present, combined with members of the crowd intent on causing trouble, the assembly descended into serious disorder necessitating the withdrawal of officers from Hyde Park. 397 police officers were reported as sustaining injuries during the struggle to regain control and 53 arrests were made.

Nature of Review

An internal Metropolitan Police debrief was commissioned by the Assistant Commissioner and led by Commander Kendrick. The terms of reference were:

- To examine the strengths and weaknesses of the policing operation.
- To enable lessons available from the planning, strategy and tactics to be debated and developed amongst Commanders (Operations) for the benefit of future events, and for any appropriate matters that arise to be incorporated into public order management, planning and training.

11. Countryside Alliance Pro-Hunting Demonstration, London – 15 September 2004[56]

On 15 September 2004, there was large-scale public disorder in Parliament Square in Central London. A rally organised by the Countryside Alliance had gathered in Parliament Square from approximately 11am to protest against the Government's Bill to ban hunting with dogs. It was estimated by the Countryside Alliance that 30,000-40,000 people turned up for this demonstration. The Metropolitan Police Service (MPS) who were expecting approximately 10,000, put the actual

[55] Kendrick, D 1995. *De-brief Report into the Disorder in Hyde Park and Park Lane on Sunday 9 October 1994*, London: Metropolitan Police.

[56] Independent Police Complaints Commission, 2005. *IPCC report into the policing of the Countryside Alliance Pro-Hunting Demonstration on Wednesday 15 September 2004 at Parliament Square, London*, London: IPCC.

figure of people who attended at 20,000. There were 1,300 police officers involved in policing the demonstration.

Members of the crowd tried to pull police barriers away from the road, resulting in a series of minor skirmishes between police officers. Some of the demonstrators surged towards the police lines, there were attempts to breach the police lines, and a number of police officers used their batons to strike demonstrators on the head, causing injuries. By the end of the day, 65 complaints had been received and one member of the public received an injury which required some 12 stitches to the head.

Nature of Review

The decision to investigate the complaints against police officers independently was made by the IPCC the day after the demonstration. It was based on the serious nature of the allegations being made by those injured, the number of allegations being made and the extensive media coverage.

Other Public Order Events Reviewed but not Discussed in Part A

- Handsworth disorder, Birmingham – 10-11 July 1981.[57]
- Trafalgar Square – New Years Eve, 1982.[58]
- Handsworth/Lozells Disturbances, Birmingham – September 1985.[59]
- Broadwater Farm, Tottenham – 6-7 October 1985.[60]
- National Public Order Forward Planning Unit Review – 1990.[61]
- Public Disorder, Bradford, 9-11 June 1995.[62]
- HMIC Thematic Inspection – Public Order Policing, January-July 1998.[63]
- Carnival Against Capitalism, London – June 18 1999.
- Mayday Protests, London – 2000, 2001.
- Community Disorder, Bradford, Oldham, Leeds, Burnley, Stoke-on-Trent – April-July 2001.[64]

57 Field, S & Southgate, P 1982. *Public Disorder: a review and a study in one inner city area*, London: HMSO.

58 Home Office. 1983. *Deaths in the area of Trafalgar Square during the New Year's eve celebrations 31 December 1982-1 January 1983 – Summary by the Home Office of a report by the Commissioner of Police of the Metropolis*, London: Home Office.

59 Dear, G J 1985. *Handsworth/Lozells. Sept. 1985. Report of the Chief Constable, West Midlands Police to the Secretary of State for the Home Department*, Birmingham: West Midlands Police. Silverman, J 1986, *An independent inquiry into the Handsworth/Lozells riots 9,10,11 September 1985*, Birmingham: City of Birmingham.

60 Gifford, L 1986. *(Broadwater Farm Inquiry). Report of the Independent Inquiry into the Disturbances of October 1985 at the Broadwater Farm estate, Tottenham*. Richards, M D 1986 *Public Disorder in Tottenham, 6 October 1985*, London: Metropolitan Police.

61 National Public Order Forward Planning Unit. 1990. *Public Order – A Strategy for the 1990s*, London: National Public Order Forward Planning Unit.

62 The Bradford Commission. 1996. *The Bradford Commission Report – The report of an inquiry into the wider implications of public disorders in Bradford which occurred on 9, 10, 11 June 1995*, London: The Stationary Office.

63 Her Majesty's Inspectorate of Constabulary (HMIC). 1999. *Keeping the Peace – Policing Disorder*, London: HMSO.

64 National Crime and Operations Faculty (NCOF). 2002. *Community Disorder – A Tactical Police Guide. A police research paper following serious community disorder April to July 2001*, London: Centrex. Commission for Racial Equality. 2002. *A Place for us all – Learning from Bradford, Oldham and Burnley*, London: Belmont Press.

- Operation Hockley, BNP and anti-racism demonstrations, Merseyside – 22 November 2008.
- Operation Nixx, Lindsay Oil Refinery – January 2009.

APPENDIX 2

ACPO PUBLIC ORDER AND PUBLIC SAFETY BRIEFING LEARNING OUTCOMES: CLIMATE CAMP (BLACKHEATH) AUGUST 2009

Rapport and Trust

1. Liaison with protest groups needs to be structured from the outset. While consideration should be given to including protest liaison officers/teams within such a structure, only Silver should make tactical decisions. Silver has a pivotal role in establishing parameters, building rapport and developing trust. There may be real or perceived barriers which can be mitigated. Aim for 'no surprises' for either side.

2. Consider using a 'Document of Understanding' to record any parameters or decisions agreed between police and protest representatives. Such a document will assist commanders documenting tactical rationale and supports the aim of 'no surprises'. It is important, having 'signed up' to such a document, that police commanders adhere to agreed parameters otherwise trust may be eroded. Likewise, the document provides an opportunity to establish some parameters for protest activity, e.g. any divergence from the agreement by protestors may negate the document and such instances would be policed appropriately (such as incursion at sensitive sites). The Document of Understanding could be published on appropriate websites to highlight the parameters agreed.

Mitigating Concerns

3. Document a stop and search tactical plan, including the rationale for use of powers and clear directions to officers.

4. Containment is a highly effective tactical consideration but may be subject to intense scrutiny. If the use of containment is being considered, explain why to protest representatives and what options are being considered to mitigate the impact, e.g. legal observers could be put in to any containment and liaise with officers on the ground regarding any vulnerable people who may need to be extracted.

5. Many protest groups are well organised and provide lots of advice to supporters including, for example, 'Bust Cards' to assist in the event of arrest. Supplies of the cards could be kept in relevant charge centres to give to anyone from protest groups being arrested.

6. Bail conditions have previously prevented people from going back into protest camps to collect personal belongings. An agreement could be reached to allow phone calls to someone in camp to collect peoples' belongings and bring them out to them.

7. Consider establishing a complaints centre to provide an easier means for individuals to complain (rather than being sent all over a force area to officers' home stations). If such a facility is to be provided it should be managed by a specific Bronze to deal immediately with issues.

8. Personal property seized during stop/search procedures has previously not always been linked to individuals if they had refused details. It may be possible to use the stop/search form as a 'receipt' for any items seized so that they could be returned.

9. If appropriate, consider using independent mediators to mitigate concerns. For example, an IAG member could be briefed regarding a specific tactic or element of an operation, observe the tactic, listen to the police rationale and then brief protest representatives.

Communication

10. Regular (daily) meetings between protest representatives and commanders can provide an opportunity for an early explanation of tactics, or resolution of issues, and thereby mitigate any misunderstandings that may result.

11. Issues will emerge as the event progresses; agree and facilitate lines of communication with protest representatives to resolve issues and communicate quickly, such as via email, mobile phones and Twitter. Such facilities can complement a meeting's regime for explanation of tactical decisions and provide early mitigation of emerging issues.

12. Establish a multi-agency Gold group as soon as a protest camp location is identified. Local Authorities should be encouraged to set up a Gold, Silver and Bronze structure to work with the police structure.

13. Twitter and other social networking sites can be used effectively but such use needs to be part of a communication strategy, ie do not just set Twitter up without an idea of how it will be used, etc.

14. Leaflets can be prepared in advance for local communities (to reduce any conflict with protesters) and for protest attendees.

Proportionate Responses

15. Consider whether officers need to enter protest camps (or should do so only for specific purposes) otherwise this may be seen as unnecessarily confrontational. Neighbourhood officers should be used to patrol the immediate environs and around the camp perimeter. If a Document of Understanding (section 1.2) has been prepared this may detail the parameters of any patrols within a camp.

16. Consider whether an overt police and/or FIT presence is required. If intelligence is received regarding possible direct action at specific locations, would a covert police presence within a location be sufficient to deal with any incursion and reduce media opportunities?

17. For lock-ons and other direct action consider:

    (i) Is there any obstruction?

    (ii) Is the protest peaceful?

    (iii) Do the individuals have a right to protest?

    (iv) Do the police have any powers, justification or obligation to intervene?

    (v) It may be that a nominal police presence may be sufficient.

    (vi) If direct action does become aggravated trespass and action has to be taken, consider liaison with force Legal Department over proposed action.

18. Ensure all FIT officers are personally briefed by Silver. The deployment of FITs can be a highly effective tactic. However it can cause conflict with protest groups. Less confrontational deployment coupled with specific FIT briefings regarding policing style and operational parameters can mitigate such conflict and maintain FIT effectiveness. For example, do FITs need to attend protest meetings, do they need to be face to face with protest groups or can they view live CCTV feeds?

Other Considerations

19. Briefings are the key to success in ensuring buy-in from commanders and understanding of officers deployed. Otherwise, there is a risk of independent action which may undermine planning.

20. Consider how to brief officers who are not actually policing the event but are working in the local vicinity to ensure they understand the strategy, tactics, policing style, powers being used, etc.

21. Do not treat protesters as a homogeneous group. For example, the Blackheath Climate Camp became split over the Whitechapel Anarchists Group because of their aggressive attitude towards the Metropolitan Police commander.

22. Journalists should be invited to briefings and consideration should be given to providing them with a specific number to call if they encounter any problems with officers on the ground. The UK press card and the role of the media should be covered in briefings with officers.

23. Consider whether protest groups could have a role in briefing specific groups of staff (e.g. commanders). Similarly, post event, it is important to consider debriefing with protest groups to maximise learning opportunities.

24. Strong consideration should be given to liaison arrangements between commanders and (force) Legal Departments and/or dedicated Human Rights Advisors (if available). They act as critical friends and will cast an independent eye over plans.

25. The strategic intentions for a protest-linked event need to reflect the facilitation of peaceful protest.

APPENDIX 3

LEGAL FRAMEWORK FOR THE USE OF FORCE

The use of force by police officers is governed by the common law, the Criminal Law Act 1967, the Police and Criminal Evidence Act 1984 and the Human Rights Act 1998, Schedule 1 which sets out Articles 2, 3 and 8 of the European Convention on Human Rights (ECHR).

All uses of force: the reasonableness test

The primary responsibility for using force rests with individual officers who are answerable to the law. The Criminal Law Act 1967, the Police and Criminal Evidence Act 1984 and the common law[1] apply to all uses of force by the police and require that any use of force should be "reasonable" in the circumstances. Reasonable in this context should be interpreted as meaning "strictly necessary" in the execution of police duties.[2] In assessing the reasonableness of the force used, three questions need to be asked:

1. Was force used to achieve a lawful objective, eg the prevention of crime or to make a lawful arrest?
2. Was the force justified in the circumstances?
   (a) Was there a need for any force at all?
   (b) How serious was the offence which was being prevented or in respect of which an arrest was being made?
3. Was the force excessive in the circumstances?
   (a) What was the nature and degree of the threat posed or the force used against the officer?
   (b) What was the nature and the degree of force used by the officer?

All the circumstances of each case must be considered very carefully when assessing whether the use of force was both necessary and reasonable.

Excessive use of force may constitute a violation of ECHR Article 2 (right to life), Article 3 (prohibition against torture, inhuman or degrading treatment) or Article 8 (right to respect for private life, which includes the right to bodily integrity). The requirement imposed by ECHR Articles 2, 3 and 8 is that, if possible, non-violent means should be used to resolve an incident before force is used. Potentially lethal force can only be used where absolutely necessary and in very limited circumstances, such as self-defence or to protect the lives of others.

[1] The common law entitles a person to use such force as is reasonably necessary to protect himself or herself or another or property: *R v Duffy* [1967] 1 QB 63.

[2] *UN Code of Conduct for Law Enforcement Officials* 1979, Article 3.

ECHR case law on the right to freedom of assembly and the use of force

A decision of the European Court of Human Rights[3] in January 2009 offers important guidance on the use of force in public order operations relating to protest. The case concerned the forceful dispersal of a small crowd of protesters. Turkish security forces received information that the Human Rights Association would hold an un-notified demonstration at a central square. At 8pm, around 30-35 persons gathered at the square holding candles, photos and banners, and sat down on the street. The police warned the demonstrators to disperse and a passage was opened by the police for the demonstrators to leave. Two persons, including K, remained. The police used force to arrest them.

The European Court of Human Rights found violations of ECHR Articles 3 (prohibition against torture, inhumane or degrading treatment), 10 (freedom of expression) and 11 (freedom of peaceful assembly). It held the following:

1. The police intervention and the subsequent arrest of K constituted an interference with his rights under ECHR Article 11. The Government had failed to explain the exact grounds why the demonstration was deemed "unlawful". Unlawful conduct such as the failure to notify does not justify an infringement of freedom of assembly and should not represent a hidden obstacle to freedom of peaceful assembly.[4]
2. Although no prior notification was given to the authorities about the protest, the police had received information that there would be a gathering on that date. The security forces were thus able to take appropriate measures. As a result, it cannot be said that the police were called upon to react without prior preparation.
3. The dispersal of the protesters was not necessary for preventing disorder and protecting public safety within the meaning of ECHR Article 11(2).
4. The dispersal was quite prompt and consequently K did not have sufficient time, together with his fellow demonstrators, to manifest his views. As such, the police intervention against the demonstration was disproportionate. Accordingly, there was a violation of ECHR Article 11.
5. The medical reports matched K's allegations of having received a blow on the head. The court found this injury sufficiently serious to bring it within the scope of ECHR Article 3.
6. ECHR Article 3 does not prohibit the use of force in certain well-defined circumstances, such as to effect an arrest. However, such force may be used only if indispensable and must not be excessive.[5]
7. There was nothing to suggest that the police had encountered any violent or active physical resistance on the part of K during the arrest which would explain the injury sustained.

[3] *Samüt Karabulut v Turkey*, App. No. 16999/04 (27 January 2009).

[4] *Oya Ataman v Turkey* App. No. 74552/01 (5 December 2006) and *Bukta and Others v Turkey* App. No. 25691/04 (17 July 2007).

[5] *Balçik and Others v Turkey*, App. No. 25/02 (29 November 2007).

8. The force used against K during the arrest was therefore excessive and in violation of ECHR Article 3.

Guidance for police on dispersal of a protest and the use of force

- An organiser of a procession may commit a criminal offence under the Public Order Act 1986 in failing to notify the police of a public procession but this alone does not justify an infringement of ECHR Article 11.
- Where police have prior information that an event is due to take place (even though formal notification has not been provided), they should take appropriate measures to plan and prepare for the event.
- Police must have information or intelligence that the protest group represents a danger to public order or public safety before imposing any conditions on a peaceful protest or taking steps to disperse the protest.
- The burden rests on the police to demonstrate that any use of force to disperse protesters is indispensable and not excessive.
- Where there is no credible evidence to suggest that the police encountered violent or physical resistance during arrest which would explain a use of force, it is likely that such use of force will be found to be excessive and in violation of ECHR Article 3.
- Police should record all uses of force, setting out the exact circumstances which led the police to use force and the nature of the force used.

Lethal or potentially lethal force: the absolute necessity test

ECHR Article 2 applies not only to intentional killing but also to situations where it is permitted to use force which may result, as an unintended outcome, in the deprivation of life.[6] ECHR Article 2 requires that the use of lethal or potentially lethal force[7] by the police be no more than is "absolutely necessary" to defend any person from unlawful violence, to effect an arrest (or prevent escape) or to quell a riot or insurrection: ECHR Article 2(2). While the use of lethal or potentially lethal force to arrest someone is permitted under ECHR Article 2(2), it is very strictly limited. The European Court of Human Rights has indicated that it would not be "absolutely necessary" to use lethal or potentially lethal force to arrest an individual unless he or she was violent and posing a threat to life or limb.[8] This effectively aligns the use of lethal force to effect an arrest with the use of lethal force to defend any person from unlawful violence.

6 *Giuliani and Gaggio v Italy*, App. No. 23458/02 (25 August 2009).

7 The European Court of Human Rights has extended the ambit of ECHR Article 2 to circumstances where potentially lethal force is used on a number of occasions: eg *Makaratzis v Greece App. No.* 50385/99, para. 53.

8 *Nachova v Bulgaria App. No.* 43577/98, para. 95.

The words "absolutely necessary" in ECHR Article 2 are crucial and indicate that a very strict and compelling test of necessity is to be applied.[9] The assessment of whether the state (as a collective entity) has met its obligations to protect life under ECHR Article 2 is an objective test. In light of the importance of the protection afforded by Article 2, the Court will subject deprivations of life by the police to the most careful scrutiny, taking into consideration not only the actions of the police, but also all the surrounding circumstances, including the planning and control of the actions under examination.[10] Police officers responsible for operations where the use of force is a possibility should so far as possible plan and control them to minimise recourse to the use of lethal or potentially lethal force.[11]

In assessing whether an individual officer's use of lethal or potentially lethal force is justified, it is the genuine and honest belief of the officer using force that is important. So long as he or she genuinely and honestly believed that lethal or potentially lethal force was "absolutely necessary" to protect the lives of others and/or of themselves, ECHR Article 2 is satisfied, even if that belief subsequently turns out to be mistaken.[12]

The obligation to protect life

ECHR Article 2 requires the police not only to refrain from the intentional and unlawful taking of life, but also, in certain well-defined circumstances, to take positive steps to protect individuals whose lives are at risk.[13] Bearing in mind the difficulties involved in policing modern societies, the unpredictability of human conduct and the operational choices that must be made in terms of priorities and resources, such an obligation must be interpreted in a way that does not impose an impossible or disproportionate burden on the police.[14] What is required is that the police take all steps that could reasonably be expected of them to avoid a real and immediate risk to life about which they know or ought to have known.[15]

In assessing whether the police have violated this positive obligation to protect life, a court will consider whether the policing operation was planned, organised and carried out in such a way as to minimise, in so far as this is possible, the use of lethal force.[16] Should this not be the case, it is likely that the court will find a breach of the positive obligation arising out of ECHR Article 2.

9 *McCann v UK* (1995) 21 EHRR 97; *Ramsahai v Netherlands App. No.* 52391/99.

10 *McCann v UK* (1995) 21 EHRR 97.

11 Ibid.

12 The European Court has taken the view that to hold otherwise would impose "an unrealistic burden" on the police in the execution of their duty "perhaps to the detriment of others": see *McCann v UK* (1995) 21 EHRR 97 para. 200; *Bubbins v UK App. No.* 50196/99 ECHR 2005.

13 *Osman v UK* [1998] 29 EHRR 245.

14 Ibid.

15 Ibid.

16 *McCann v UK* (1995) 21 EHRR 97; *Şimşek and Others v Turkey*, App. No.s 35072/97 and 37194/97 (July 2005).

In a recent case,[17] the European Court of Human Rights has specifically considered the use of force by the police in the context of a policing operation relating to an international event, in this case, the G8 Summit held in Genoa in 2001. The Court stated:

> When a State agrees to host an international event entailing a very high level of risk, it must take the appropriate security measures and deploy every effort to ensure that order is maintained. Hence, it is incumbent upon it to prevent disturbances which could lead to violent incidents. If such incidents should nevertheless occur, the authorities must exercise care in responding to the violence, in order to minimise the risk of lethal force being used. At the same time, the State has a duty to ensure that the demonstrations organised in connection with the event pass off smoothly, while safeguarding, inter alia, the rights guaranteed by Articles 10 and 11 of the Convention.[18]

Investigations of killings

The obligation to protect the right to life under ECHR Article 2 also requires that there should be some form of effective official investigation when individuals have been killed as a result of the use of force.[19] The investigation should be independent, accessible to the victim's family, carried out with reasonable promptness and expedition, capable of leading to a determination of whether the force used was or was not justified in the circumstances and afforded a sufficient element of public scrutiny of the investigation or its results.[20]

17 *Giuliani and Gaggio v Italy*, App. No. 23458/02 (25 August 2009).

18 Ibid, para. 231.

19 *McCann v UK* (1995) 21 EHRR 97.

20 *Hugh Jordan v UK*, App. No. 24746/94 (4 May 2001).

APPENDIX 4

LEGAL FRAMEWORK FOR THE RIGHT TO PROTEST IN PUBLIC AND PRIVATE SPACE

The legal framework for the right to protest in public and private space set out below has been translated into three human rights compliant decision-making flow diagrams (included in Chapter 7) relating to the following:

1. Facilitating peaceful protest.
2. Use of the public highway.
3. Protests on private land.

A. PROTESTS IN PUBLIC SPACE

1. The right to protest

The police have statutory powers and duties in relation to the policing of protest, including those set out in the Public Order Act 1986, the Criminal Justice and Public Order Act 1994, the Criminal Law Act 1967, the Police and Criminal Evidence Act 1984, and common law powers and duties, including powers to prevent breaches of the peace.

The use of all police powers must be considered in accordance with the Human Rights Act 1998. This requires all public authorities,[1] including the police, to act in a way which is compatible with the rights set out in Schedule 1 to the Act, which are taken from the European Convention on Human Rights (ECHR), unless primary legislation requires them to act otherwise.[2] The public order legislation referred to above can be read compatibly with ECHR rights and that interpretation must be given to it.[3]

ECHR Articles 9, 10 and 11 protect the right to manifest a religion, to freedom of expression and to freedom of peaceful assembly respectively. Taken together, they provide a right of protest. The right to freedom of peaceful assembly[4] under ECHR Article 11 places both negative and positive obligations on the police. The police must not prevent or restrict peaceful protest except to the extent allowed by ECHR Article 11 (2) (see below). In addition, the police have a duty in certain circumstances to safeguard the right to peaceful assembly.[5]

2. The starting point for policing public protest: the presumption in favour of peaceful assembly

Balancing the rights of protesters and other citizens with the duty to protect

[1] A public authority includes any body exercising functions of a public nature.

[2] Human Rights Act 1998, ss.6(1) and 6(2).

[3] Ibid, s.3.

[4] Which includes static protests, marches, parades and processions, demonstrations and rallies.

[5] *Bukta and Others v Hungary* (2007) App. No. 25691/04.

people and property from the threat of harm or injury defines the policing dilemma in relation to public protest. The majority of protests which take place in densely populated cities such as London will cause some level of obstruction and/or disruption unless they are conducted in a controlled area. Public authorities, including the police, are required to show a certain degree of tolerance towards peaceful gatherings where demonstrators do not engage in acts of violence,[6] even if these protests cause a level of obstruction or disruption.

During the HMIC Review, it has become clear that a number of police forces in England and Wales approach peaceful protest in terms of "is the protest lawful or unlawful?" This is an incorrect starting point. The concept of 'unlawful protest' is inaccurate as a matter of law. Firstly, there is no legal basis in domestic law for describing a public protest as inherently unlawful: the common law offence of unlawful assembly was explicitly abolished under section 9 of the Public Order Act 1986 and neither the Public Order Act 1986 nor the law on obstruction of the highway renders a protest *in and of itself* unlawful. Secondly, the right guaranteed by ECHR Article 11 is the right to "peaceful assembly", not "lawful assembly". By definition, a person who is exercising the right in ECHR Article 11 to peaceful assembly is acting lawfully. In fact, it is unlawful under the Human Rights Act for a public authority, including the police, to act in a way which is incompatible with that right.[7] But the police will not be acting in a way which is incompatible with the right if they act in accordance with the requirements of Article 11(2). Both points are explained further below.

The Public Order Act 1986 requires organisers to give advance written notice to the police of any proposal to hold a public procession, unless it is not reasonably practical to do so.[8] A breach of the notification requirement in section 11 of the Public Order Act does not render a protest 'unlawful' under the Public Order Act 1986 or mean that an otherwise peaceful procession falls outside the ambit of ECHR Article 11. Firstly, the section applies only to public processions and not to other assemblies. Secondly, it does not make criminal the mere participation in such a procession: only the organisers will commit an offence.[9]

In the same way, the mere obstruction of a highway does not render a public assembly 'unlawful'. Lots of activities are obstructions of the highway or cause disruption to traffic in major cities, including sporting events such as marathons and public events like the State opening of Parliament. It is only unreasonable obstructions of the highway which are unlawful. The legislation on obstruction of the highway must (as far as possible) be read and given effect in a

6 *Oya Ataman v Turkey* (2006) App No. 74552/01.

7 Human Rights Act 1998, s.6(1)

8 Public Order Act 1986, s.11.

9 Ibid, s.11(7).

10 Human Rights Act 1998, s.3.

way which is compatible with the Convention rights.[10] This has the effect that an obstruction which is a lawful exercise of the right to peaceful assembly under ECHR Article 11 is not an unreasonable one. Of course, if lawful restrictions have been imposed on the right to peaceful assembly in accordance with ECHR Article 11(2) (for example, in accordance with sections 12 or 14 of the Public Order Act 1986), it will not be a lawful exercise of the right to peaceful assembly to fail to comply with those restrictions.

The correct starting point is the presumption in favour of facilitating peaceful assembly. This is not an absolute presumption. ECHR Article 11 does not mean that the right to peaceful assembly is protected in all circumstances. It is a qualified right which means that the right to peaceful assembly can be interfered with if the restriction

(a) is in accordance with the law;

(b) has a legitimate aim, including the interests of public safety, the prevention of disorder or crime and the protection of the rights of others

(c) and is necessary in a democratic society, ie meets a pressing social need and is proportionate (ECHR Article 11(2)).

The principle of proportionality requires that:

(i) the purpose is sufficiently important to justify the restriction;

(ii) the means chosen are rationally connected to that purpose;

(iii) other less restrictive means would not be as effective in achieving that purpose; and

(iv) a fair balance must be maintained between the rights of the individual and the general interest of the community.

Whether the police can rely upon ECHR Article 11(2) to place restrictions on the rights of protesters to peaceful assembly will depend on all the circumstances of a case. If the police attempt to impose restrictions on the right to peaceful assembly which do not comply with ECHR Article 11(2), those restrictions will be an unlawful interference with the right to peaceful assembly and a violation of Article 11.

If a police officer purports to arrest a person in circumstances that are an unlawful interference with the right to peaceful assembly, that person can sue the police for violation of the right but can also rely on that right in proceedings brought against them,[11] e.g. criminal proceedings for obstruction of an officer in the execution of his or her duty, or an application to bind them over for breach of the peace.

[11] Ibid, ss.7(1)(a) and (b).

3. Notice requirements for public processions

Section 11(1) of the Public Order Act 1986 requires that advance written notice[12] must be given of any proposal to hold a public procession intended:

(a) to demonstrate support for or opposition to the views or actions of any person or body of persons;

(b) to publicise a cause or campaign; or

(c) to mark or commemorate an event, unless it is not reasonably practicable to give advance notice.[13]

For the purposes of the Public Order Act 1986, a public procession is a procession in a public place.[14] A public place is defined as any highway and any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.[15]

The Public Order Act 1986 does not impose any notice requirements on public assemblies. A public assembly is defined under the Act as an assembly of 2 or more persons in a public place which is wholly or partly open to the air.[16]

The House of Lords recently considered the requirement under the Public Order Act 1986 for organisers of public processions to give advance written notice to the police. *Kay v Commissioner of the Police of the Metropolis*[17] concerned the Critical Mass cycle rides taking place in London on the last Friday of every month.

Lord Rodger commented that it was significant that the section 11 notice requirement was confined to certain kinds of public procession and concluded that:

> the essential purpose of section 11 (1) is not so much to warn the police of possible interference with traffic as to warn them of a procession whose aim might provoke opposition and so give rise to public order problems. This is, of course, consistent with the provision being included in the Public Order Act.[18]

The narrow issue for consideration by the House of Lords was whether Critical Mass was a procession "commonly or customarily held in the police area (or areas) in which it is proposed to be held" so that it fell within the exemption from notification granted by section 11(2) of the Public Order Act 1986.

The key questions were:

1. Was the Critical Mass cycle ride that takes place each month the same procession?
2. Was that procession "commonly or customarily held" in the Metropolitan area?

[12] The written notice must specify the date, time and proposed route of the procession; and the name and address of the person (or one of the persons) proposing to organise it: Public Order Act 1986, s.11(3).

[13] This exception is intended to allow for a completely spontaneous procession to take place.

[14] Public Order Act 1985, s.16.

[15] Ibid.

[16] Ibid, as amended by the Anti-social Behaviour Act 2003, s.57.

[17] [2008] UKHL 69.

[18] *Kay v Commissioner of the Police of the Metropolis* [2008] UKHL 69, para.29.

The House of Lords noted that the notice requirement does not apply where the procession is one "commonly or customarily"[19] held in the police area on the ground that the purpose of the exception is to remove the obligation to give advance warning in the case of processions which the police know about anyway and so can take appropriate steps to control.[20]

The House of Lords found that a fixed and known route is not an essential characteristic of a procession commonly or customarily held and concluded that the Critical Mass cycle rides that take place month after month have so many common features[21] that any person would consider that each month the same procession takes place and that it is a "commonly or customarily held" in the Metropolitan Police Area.

4. Public use of the highway

The House of Lords has addressed both the extent of the right to use the public highway and the scope of the legislation on trespassory assemblies. A 1999 case[22] concerned the prosecution of individuals who were part of a peaceful non-obstructive assembly which had gathered on a roadside verge adjacent to the perimeter fence of Stonehenge. The area was subject to an order under section 14A of the Public Order Act 1986 prohibiting "trespassory assemblies" and the individuals had been charged with taking part in a trespassory assembly contrary to section 14B of the Act.

The central issue of the case turned on two inter-related questions:

1. What are the limits of the public's right of access to the public highway?
2. What is the particular purpose for which the public has a right to use the public highway?

The House of Lords held the following:

- The public's right to use the highway was not restricted to the right of passage and activities that are incidental or ancillary to the exercise of that right of passage. This would place an unrealistic and unwarranted restriction on commonplace day-to-day activities.
- The public highway was a public place on which all manner of reasonable activities might go on.
- The right contained in ECHR Article 11(1) is denied if there is a failure to recognise that assembly on the public highway may be lawful.

[19] Public Order Act 1986, s.11(2).

[20] *Kay v Commissioner of the Police of the Metropolis* [2008] UKHL 69, para.30.

[21] Including (i) each procession is made up of cyclists; (ii) each procession starts at the same place; (iii) each procession takes place in the Metropolitan Police Area; (iv) each procession starts at 6pm on the last Friday of every month; (v) those joining each procession do so with a common intention; (vi) each procession is recognised and publicised by a single name, Critical Mass; and (vii) each procession chooses its route on a follow-my-leader basis.

[22] *DPP v Jones and Another* [1999] 2 AC 240.

- Provided such activities are reasonable, do not involve the commission of a public or private nuisance and do not amount to an obstruction of the highway by *unreasonably* impeding the primary right of the general public to pass and repass, they should not constitute a trespassory assembly.
- Such a reasonable user test was consistent with the law relating to wilful obstruction of the highway where reasonable use provided a lawful excuse for a technical obstruction of the highway.
- The question of whether or not the use amounts to an unreasonable obstruction of the highway depends on all the circumstances, including the length of time the obstruction continues, the place where it occurs, the purpose for which it is done and whether it does in fact cause an actual obstruction as opposed to a potential obstruction.[23]
- Subject to these qualifications, there was a public right to peaceful assembly on the public highway.
- Restrictions on the right of freedom of assembly may be justified where necessary for the protection of the rights and freedoms of others.

When does a peaceful protest become an unreasonable obstruction of the highway?

Section 137(1) of the Highways Act 1980 provides that if a person, without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway, he is guilty of an offence and liable to a fine.[24]

The question of whether an individual is guilty of wilful obstruction of the highway turns on three questions:[25]

(i) Was there an obstruction? Any stopping on the highway, unless *de minimis*, counts as an obstruction.

(ii) Was the obstruction deliberate (as opposed to accidental)?

(iii) Was the obstruction without lawful excuse or authority? Any lawful activity carried out in a reasonable manner may amount to lawful excuse. If the obstruction was not unlawful in itself, the question is whether the activity in which the individual was engaged was an unreasonable user of the highway.

The legislation on obstruction of the highway must (as far as possible) be read and given effect in a way which is compatible with the rights set out in Schedule 1 to the Human Rights Act 1998. The police must consider whether the obstruction by individual protesters is reasonable and strike a fair balance

[23] *Nagy v Weston* (1965) 1 All E R 78, 80, per Lord Parker CJ.

[24] Not exceeding level 3 on the standard scale: Highways Act 1980 s.137(1) as amended by the Criminal Justice Act 1982, ss.38 and 46.

[25] *Hirst and Agu v Chief Constable of West Yorkshire* (1987) 85 Cr. App. R. 143.

between the rights of individuals to peaceful assembly and the rights and freedoms of others.

If a protest causes an actual obstruction of the highway, the next question is whether that obstruction is wilful in the sense of being deliberate. If the obstruction is wilful, the final question is whether there is lawful authority or excuse for the obstruction. Examples of lawful authority include permits and licences granted under statutory provisions. Examples of lawful excuse include activities otherwise lawful in themselves which are reasonable in all the circumstances. An obstruction which is a lawful exercise of the right to peaceful assembly under ECHR Article 11 is a reasonable one. Thus, to hold a peaceful protest on the highway which does not prevent other people from using the highway is a reasonable use of the highway and should be facilitated.

As noted, the police can lawfully restrict the right to peaceful assembly under Article 11(2). Where lawful restrictions have been imposed by the police on the right to peaceful assembly in accordance with ECHR Article 11(2) (for example, in the interests of public safety or in balancing the rights of others), an obstruction of the highway which does not comply with those restrictions is not a lawful exercise of the right to peaceful assembly under ECHR Article 11 and the obstruction is likely to be unreasonable. However, if the police attempt to impose restrictions on the right to peaceful assembly which do not comply with ECHR Article 11(2), those restrictions will be an unlawful interference with the right to peaceful assembly and a violation of Article 11.

B. PROTESTS ON PRIVATE LAND

The right to peaceful assembly under ECHR Article 11 generally only applies in public places and if individuals protest on private land without the permission of the occupier, they will be trespassing. Trespassing is not normally a criminal offence, but it is a civil wrong which means that the occupier can sue the trespasser or apply for a court order for possession. The police cannot normally arrest someone merely because they are trespassing, although they may have powers to intervene to prevent a breach of the peace or to deal with trespassory assemblies or aggravated trespass (see below).

ECHR Protocol 1, Article 1 protects property rights, providing that every person is entitled to the peaceful enjoyment of his or her possessions, including his or her property. A private property owner may, in certain circumstances, be presumed to have extended an implied invitation to members of the public to come onto his or her private land for lawful purposes. However, this presumption in the main concerns commercial premises such as shops, theatres and restaurants and private premises are covered only to the extent that a private owner authorises

people to come up the path to the front door of his or her private property to deliver letters or newspapers or such like. In addition, any implied invitation may be revoked at will – a private person's ability to eject people from privately owned land is generally unfettered.

1. The scope of the State's positive obligation to secure the exercise of ECHR Articles 10 and 11

The privatisation of public space in recent years has created confusion – both for protesters, who demand the right to protest in private spaces which they perceive to be quasi-public (for example, shopping centres) and for the police, who are uncertain of their duties and the powers which they may exercise. The European Court of Human Rights has considered the scope of the State's positive obligations to secure the exercise of the rights under ECHR Articles 10 and 11 in relation to private land. In *Appleby v UK*,[26] a number of individuals wanted to assemble and set up a stall to canvass views from the public in a privately owned shopping centre (which effectively constituted the town centre). The shopping centre had been built by a public entity on public land before the transfer into private ownership. The private company which owned the shopping centre refused the individuals permission to use the shopping centre for their activities. The individuals argued that the State owed them a positive obligation to secure the exercise of their rights to freedom of expression and assembly within the private shopping centre.

The European Court of Human Rights recognised the key importance of the freedoms of expression and assembly and noted that genuine, effective exercise of these freedoms do not depend merely on the State's duty not to interfere, but may require positive measures of protection, even in the sphere of relations between individuals.[27] However the Court concluded that notwithstanding the importance of the freedoms of expression and assembly, neither ECHR Article 10 nor ECHR Article 11 bestowed any freedom of forum for the exercise of the right. The Court found that the restriction on the individuals' ability to communicate their views was limited to the entrance areas and passageways of the private shopping centre and did not prevent them from obtaining individual permission from businesses within the shopping centre or from distributing leaflets on public pathways or to communicate their views to fellow citizens through other methods. As such, there was no violation of ECHR Article 10 or Article 11.

The Court noted that where, however, the bar on access to property had the effect of *preventing* any effective exercise of the freedoms of expression or assembly, or it could be said that the essence of the rights had been destroyed, the Court would not exclude that a positive

[26] App. No. 44306/98 (2003).

[27] *Appleby v UK* App. No. 44306/98, para.39.

obligation could arise for the State to protect the enjoyment of Convention rights by regulating property rights. The Court suggested that an example might be a corporate town where the entire municipality was controlled by a private body.

2. Trespassory assemblies

The Criminal Justice and Public Order Act 1994 gave the police new powers to deal with trespassory assemblies.[28] The 1994 Act inserted section 14A into the Public Order Act, which states that if a chief constable reasonably believes that an assembly (numbering 2 or more persons[29]) is intended to be held on land to which the public has no right of access, or only a limited right of access, and that the assembly:

(a) is likely to be held without the permission of the occupier of the land or to conduct itself in such a way as to exceed the limits of the occupier's permission or the limits of the public's right of access; and

(b) may result in serious disruption to the life of the community, or where the land or a building or monument on it is of historical, architectural, archaeological or scientific importance, in significant damage to the land, building or monument,

the chief constable may apply to the district council for an order prohibiting for a specified period the holding of all trespassory assemblies in the district or a part of it.[30] In the case of the Metropolitan Police service or the City of London Police, the Commissioner may apply direct to the Secretary of State.

An order under section 14A of the Public Order Act 1986 (a "section 14A Order") operates to prohibit any assembly which is held on land to which the public has no right of access or only a limited right of access.[31] A person who organises, participates or incites another to participate in an assembly which he or she knows is prohibited by a section 14A Order is guilty of an offence.[32] In addition, if the police reasonably believe that a person is making his or her way to an assembly prohibited by a section 14A Order, the police may stop that person and direct him or her not to proceed in the direction of the assembly.[33] A person who fails to comply with such a direction of which he or she has knowledge is also guilty of an offence.

[28] Criminal Justice and Public Order Act 1994, ss.70 and 71.

[29] Public Order Act 1986 s.6, as amended by the Anti-social Behaviour Act 2003, s.57.

[30] Ibid, s.14A(1). On receiving such an application, a district council in England and Wales may, with the consent of the Secretary of State, make an order either in the terms of the application or with such modifications as may be approved by the Secretary of State: Public Order Act s.14A(2).

[31] Ibid, s.14A(5),

[32] Ibid, s.14B.

[33] Ibid, s.14C.

Police powers to remove trespassers

If a senior police officer reasonably believes that two or more persons are trespassing on land and are present with the common purpose of *residing* there, that reasonable steps have been taken by or on behalf of the occupier to ask them to leave and that:

(a) any of those persons has caused damage to the land or to property on the land or used threatening, abusive or insulting words or behaviour towards the occupier, members of his or her family or his or her employees, or

(b) that those persons have between them six or more vehicles on the land,

the senior officer may direct those persons to leave the land and to remove any vehicles or other property they have with them on the land.[34]

A person who knows that a direction has been given which applies to him or her and fails to leave the land as soon as reasonably practicable or having left, re-enters the land as a trespasser within three months, is guilty of a criminal offence.[35]

3. Offence of aggravated trespass

A person commits the offence of aggravated trespass[36] if he or she trespasses on land (which includes a building[37]) and does anything intentionally to:

(a) intimidate persons engaging in lawful activity[38] on that land or on the adjoining land so as to deter them from engaging in that activity;

(b) obstruct persons engaging in lawful activity; or

(c) disrupt persons engaging in lawful activity.

The police also have powers to remove persons committing or participating in aggravated trespass.[39]

C. PROTESTS IN THE VICINITY OF PARLIAMENT

Sections 132-138 of the Serious Organised Crime and Police Act 2005 establish a legal framework for the regulation of protests within the vicinity of Parliament and other designated areas.[40] Section 132 of the 2005 Act makes it an offence for

[34] Criminal Justice and Public Order Act 1994, s.61(1).

[35] Ibid, s.61(4).

[36] Ibid, s.68(1).

[37] Ibid, as amended by s.59 of the Anti-social Behaviour Act 2003.

[38] Activity on the part of the person or persons on land is "lawful" for the purposes of this section if that person or persons may engage in the activity on the land without committing an offence or trespassing on the land: Ibid, s.68(2).

[39] Ibid, s.69.

[40] The Secretary of State may by order specify an area as a designated area: Serious Organised Crime and Police Act 2005, s.138.

any person to organise, take part in or carry on by him or herself a demonstration in a public place within the vicinity of Parliament or other designated area without prior authorisation by the Commissioner of the Metropolitan Police Service.[41]

There has been criticism of sections 132 – 138 of the Serious Organised Crime and Police Act 2005, not least because of uncertainty regarding what constitutes a demonstration which makes enforcement of the provisions problematic. The Joint Committee on Human Rights recommended repeal of sections 132 – 138 of the Act in its report on policing protest published in March 2009.[42] The Government has proposed the repeal of sections 132-138 of the 2005 Act in the Constitutional Renewal and Governance Bill.

D. BREACH OF THE PEACE POWERS OF THE POLICE

The police have common law powers to deal with an actual or apprehended breach of the peace. A breach of the peace is committed when an individual causes harm, or appears likely to cause harm, to a person, or in that person's presence, to his/her property, or puts that person in fear of such harm being done;[43] and/or when an individual acts in a manner the likely consequence of which would be to provoke violence in others.[44]

The basic principle is that a police officer may take reasonable action to stop a breach of the peace which is occurring, or to prevent one which the police officer reasonably anticipates will occur in the near future. Reasonable action can include arresting a person, entering premises or taking other action such as stopping people from moving from one place to another.[45] To be compatible with the Human Rights Act 1998, action can only be taken by the police when they honestly and reasonably believe that there is a real risk of an imminent breach of the peace,[46] reasonably close by[47] and any action taken must be intended to ensure public safety; to prevent disorder or crime and/or to protect the rights of others and must be necessary and proportionate.[48]

Action cannot be taken against individuals on the basis that they are acting in a manner the likely consequence of which would be to provoke violence in others if their conduct is reasonable or the actual or potential violence provoked in others

41 A person seeking authorisation for a demonstration in a designated area must give written notice to the Metropolitan Commissioner: Ibid, s.133.

42 Joint Committee on Human Rights, *Demonstrating Respect for Rights?* Seventh Report of Session 2008-09, HL Paper 47-1, 23rd March 2009.

43 *R v Howell* [1982] QB 416.

44 *McLeod v UK* [1999] 27 EHRR 493 at para.42.

45 *Duncan v Jones* [1936] 1 KB 218 and *Moss v McLaughlan* [1985] IRLR 76.

46 Meaning proximate in time.

47 Meaning proximate in place.

48 *R (Laporte) v Chief Constable of Gloucestershire Constabulary* [2004] EWCA 253.

is "wholly unreasonable".[49] The guiding principle is that lawful conduct will rarely, if ever, be other than reasonable; and conversely, a violent reaction to the lawful conduct of others will rarely, if ever, be other than wholly unreasonable.[50]

A police officer considering using breach of the peace powers in these circumstances must ask four questions:

1. Do you honestly and reasonably believe that there is a real threat of violence or harm? If there is no real threat, no question for intervention for breach of the peace arises.
2. Who is the threat of violence coming from? You must take action against the person or persons causing the threat of disorder or violence. The conduct must interfere with the rights of others and its natural consequence must be "not wholly unreasonable violence" from a third party.[51]
3. Is the action you are taking intended to ensure public safety, prevent disorder or crime and/or protect the rights of others?
4. Is the action you are taking necessary and proportionate?

If a person is acting lawfully, for example, properly exercising his or her own rights of assembly, demonstration or free speech, and is in no way interfering with the rights of others, then it is unlikely that violence provoked on the part of others would be reasonable. Nobody has to stop and listen to an assembly gathered to express certain beliefs or opinions. If they do so, they are as free to express their own counter views or opinions. But free speech includes "not only the inoffensive but the irritating, the contentious, the eccentric, the heretical, the unwelcome and the provocative provided it does not tend to provoke violence."[52] Before a police officer decides that the natural consequence of lawful conduct by an individual would, if persisted in, be to provoke another to violence, the officer should be satisfied that in all the circumstances, it is the individual who is acting unreasonably rather than the other person.

Offences associated with the use of threatening, abusive or insulting words or behaviour

These common law powers are supplemented by the Public Order Act 1986 which makes it an offence for a person to use threatening, abusive or insulting words or behaviour,[53] or to

[49] *Percy v DPP* [1995] 1 WLR 1382.

[50] *Redmond-Bate v DPP* [1999] Crim LR 998, per Sedley LJ.

[51] Ibid.

[52] Ibid.

[53] The types of conduct which may be capable of amounting to threatening, abusive or insulting words or behaviour include threats made towards innocent bystanders or individuals carrying out public service duties and the throwing of missiles by a person taking part in a demonstration or other public gathering where no injury is caused: Crown Prosecution Service Legal Guidance, *Public Order Offences Incorporating The Charging Standard*, July 2009.

display threatening, abusive or insulting material, which is likely[54] or intended[55] to cause harassment, alarm or distress; or which is intended to cause fear of or provoke unlawful violence;[56] or which is intended to stir up racial[57] or religious[58] hatred,[59] or, due to the particular circumstances, racial or religious hatred is likely to be stirred up.[60] However, the Public Order Act 1986 expressly protects freedom of expression and states that the offence of incitement to religious hatred should not be read or given effect in such a way as to prohibit or restrict discussion, criticism or expressions of antipathy, dislike, ridicule, insult or abuse of particular religions or the beliefs or practices of their adherents.[61]

The common law powers to deal with an actual or apprehended breach of the peace are also supplemented by the duty on the police to take reasonable steps to protect individuals from a real and imminent threat to life under ECHR Article 2 (see Appendix 3).

[54] Public Order Act 1986, s.5.

[55] Ibid, s.4A.

[56] Ibid, s.4.

[57] Racial hatred means hatred against a group of persons defined by reference to colour, race, nationality (including citizenship) or ethnic or national origins: Ibid, s.17. Jews and Sikhs have been deemed by the courts to be racial groups. Muslims and Christians, for example, have been considered as religious rather than racial groups.

[58] Religious hatred means hatred against a group of persons defined by reference to religious belief or lack of religious belief: Ibid, s.29A as inserted by the Racial and Religious Hatred Act 2006. The reference to "religious belief or lack of religious belief" is a broad one, and is in line with the freedom of religion guaranteed by ECHR Article 9.

[59] Public Order Act 1986, s.18 and s.29B.

[60] Ibid, s.18 and s.29B.

[61] Ibid, s.29J as inserted by the Racial and Religious Hatred Act 2006.

APPENDIX 5

HMIC CONSULTATION WITH POLICE AUTHORITIES

Question 1: Communication with protesters

Part 1 highlighted police failure to effectively communicate messages and expectations to the public and protesters' groups before, during and after the event. Is there a role for police authorities in this process?

The majority of police authorities agreed that their key role was to hold the local force to account and specifically, in terms of policing protest, they needed to be made aware of significant risks or complaints arising from the policing operation. Overall, police authority responses indicated caution regarding direct communication between the authority and protesters or protest groups. Dorset Police Authority commented that:

> The facilitation of peaceful assembly and the imposition of any lawful restrictions should be negotiated between the force and the protesters and the authority be made aware of any significant risks identified or complaints arising as a result. We do not feel that direct communication between protesters/protests groups and the authority as opposed to the force would be of value and may even have the potential to compromise the authority's oversight responsibilities.[1]

It was widely recognised that it was the local police which needed to be directly engaged in dialogue and not the police authority. Examples included:

- Implementation of shared statements of intent with protest groups (Sussex Police Authority).
- An identified officer as a single point of contact for protesters/protest groups (Kent Police Authority).
- Allocation of trained negotiators who are also Advanced Public Order Commanders and public order experienced (West Midlands Police Authority).

Individual police authorities suggested that their role should be to ensure that there was direct and timely communication between the local police and protesters at all stages of the protest, including before and after the event. Kent Police Authority stated that:

> ...these communications need to explicitly recognise that, typically, protest groups do not have the same degree of command structure, discipline and organisation that exists in the police service. Out of necessity, forces will need to be able to operate comfortably in an environment with considerable ambiguity, which, in fairness, is the case with much operational policing.

[1] Written submission from Dorset Police Authority.

> In Kent we see some attractions to the role a panel or reference group could provide in brokering and overseeing this aspect of communication (as well as the wider aspects of the policing operation itself). An independent view on the efforts made by both police and protester groups to engage during the planning phase could...
>
> (a) act as a powerful impetus aiding communication; and
>
> (b) assist any post-hoc scrutiny after the event.[2]

Question 2: Community consultation of police tactics

***Adapting to Protest* highlighted public concerns regarding the use of particular police tactics, such as containment. Should police authorities consult with communities regarding the use of police tactics?**

Police authorities gave mixed views regarding consultation with communities and protesters regarding the use of police tactics. However, the majority of authorities agreed that it was important that forces recognise the impact their actions have on public confidence across force boundaries.

In interviews with Greater Manchester Police and Police Authority, there was agreement that:

> the impact of a poorly-handled event in another force can have implications for all forces and police authorities in terms of the impact on public confidence. It is important that performance management and consideration of the potential impact that the policing of such events may have extend beyond local force boundaries

Dorset Police Authority commented:

> However, we do not feel that police authorities should be actively exploring the use of different public order tactics with communities. While we feel that there is the potential for the force to discuss any tactical decisions with communities so that expectations are clear during the planning of the event, we do not feel that police authorities should take the lead on this issue.

This view was echoed by West Midlands Police Authority who said:

> It is the force that will conduct discussions with organisers prior to the event to discuss such matters as the specific location of gatherings, routes of marches and expected behaviour... In short, there is little meaningful discussion that police authorities can have with the public before or during a particular event.

Police authorities agreed that there should be proactive engagement by local forces with local communities affected by public order events, including protests. Derbyshire Police Authority referred to the recent BNP Red, White and Blue rally in August 2009 where the local police consulted with the community, explaining:

[2] Written submission from Kent Police Authority.

> Verbal and written briefs have been provided; details have been posted on websites and leaflets have been provided to residents; the key message is to keep all informed of the details surrounding the event in order that there is no misunderstanding.

Question 3: Role of police authorities as observers

Do police authority members attend as observers in command rooms or on the ground during police public order operations?

Kent Police Authority referred to the statutory obligation of police authorities to monitor their local force's human rights compliance and noted that this should be a key consideration for any authority in the public order policing context.

A number of police authorities confirmed that their members attended as observers on the ground during policing operations of public events such as protests. However, a number of authorities voiced the need for caution to avoid any perception that members were involved at the operational level.

Sussex Police Authority made reference to its oversight of a public order operation in May 2009:

> On the day itself [three police authority members] all visited the operations room and met with the Gold Commander... They remained for much of the day and were able to view and discuss with the Gold Commander the policing operation as the day unfolded.

Derbyshire Police Authority discussed its experience of the BNP Red, White and Blue Rally in August 2009:

> The Derbyshire Police Authority has been fully engaged... with briefings and updates being provided by the force. The Authority... will have access to the command and control structure of the event, recognising that the operational running of the event lies firmly with the Chief Constable and his Gold Command team. The Authority does have an oversight role and also a role in reassuring the public and the media before, during and after the event.

West Midlands Police Authority underlined the need for clearly defined roles for police authority members:

> ....if it means that PA members dotted around the crowd at various points should, in real time, communicate their spontaneous assessments of the mood of the crowd in order to influence the policing response – this looks like a recipe for confusion and an overstepping of their role... on the other hand, it would be helpful for PA members who wished to, to be present on the ground during a protest and to carefully monitor what they observed. This could be fed back during the post-event debrief.

Gwent Police Authority commented that:

> Members [are] involved in briefings, planning meetings and act as observers in public order situations where appropriate. We have done this for critical incidents... and we would extend the same principles to public order situations in appropriate circumstances."

Gwent Police Authority underlined the need for clearly defined boundaries for police authorities to avoid undermining their scrutiny function:

> [there is a] need for briefings by police commanders and possibly attendance of PA members at planning meetings; but anything further leads the PA member into the realms of 'being operational'. I think this could be very dangerous and could blur the line between the force and the PA; leading to an under-mining of our scrutiny role.

A member of Bedfordshire Police Authority stated that they felt "very uncomfortable" about the idea of authority members acting as observers but thought that "independent monitors may well be a good idea".

Dorset Police Authority questioned the value of independent monitors:

> It is difficult to know if the use of independent monitors would significantly improve public confidence or add value to the policing of protests and, ultimately, public confidence in their independence would be questioned, such as the IPCC sometimes experience

Question 4: Costs

There are likely to be more protests in the future rather than fewer. Therefore, policing costs will necessarily increase. What are police authorities' views on how these rising costs might be met?

Police authorities accepted the need to ensure that they budgeted for the policing of pre-planned events within their local budgets. Greater Manchester Police Authority commented:

> Forces and authorities need to ensure that, wherever possible, they budget for the policing of major events where possible. Obviously this is not feasible in relation to undeclared protests but, where possible, should be based on past experience and learning in relation to successful policing of previous events of a similar nature.

However, where local protests threatened to run for extended periods of time, then a number of authorities considered that special grants[3] or some form of central funding should be available to local forces.

Kent Police Authority identified the following issues associated with costs and large scale protest:

- Mutual aid: developing sustainable and affordable improvements to the current arrangements for recompense.
- Home Office Special Grants framework: securing a greater degree of clarity and lead-in time on the extent and quantum of any Home Office contribution to costs is essential. The current arrangements appear heavily geared towards administrative convenience rather

[3] If a police authority is faced with a major incident or an event which is likely to be a major drain on resources, they can apply to the Home Office for a Special Grant. Typically, police authorities will be required to provide funding of up to 1% of their net budget requirement prior to any Home Office additional Special Grant funding for each application.

than the realities of funding large scale policing operations especially where crucial national infrastructure is involved. These pressures are particularly apposite in the current and likely financial climate.

- The role of the private sector: a constructive working relationship between police and owners or operators of sites significantly assists in ensuring steps are taken to secure these facilities. This is particularly important in relation to large, exposed sites or sites housing critical national infrastructure where the ramifications of security breaches by demonstrators could have implications for protester safety and the national interest.

APPENDIX 6
CONTRIBUTORS TO HMIC POLICING PROTEST REVIEW

The HMIC Review Team would like to acknowledge the significant contribution made by members of the following groups who have provided written submissions, opinions and advice; participated in focus groups and/or attended meetings to offer professional reflections and feedback.

HMIC Review Team

Led by Her Majesty's Chief Inspector of Constabulary, Denis O'Connor.

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Climate Camp
FITwatch

Police Focus Groups

Association of Chief Police Officers
British Transport Police
City of London Police
Hampshire Constabulary
Metropolitan Police Service
Sussex Police
Wiltshire Police

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Bedfordshire, Cheshire, Cleveland, Dorset, East Midlands, Essex, Greater Manchester, Gwent, Kent, Lothian and Borders, Merseyside, Metropolitan Police, Northern Ireland Policing Board, North Yorkshire, Strathclyde, Sussex, West Midlands and West Yorkshire.

Police Forces

British Transport Police, City of London, Greater Manchester, Kent, Lothian and Borders, Merseyside, Metropolitan Police Service, North Yorkshire, Police Service of Northern Ireland, Strathclyde, Thames Valley, West Midlands and West Yorkshire.

Staff Associations

Chief Police Officers Staff Association
Police Superintendents Association
Police Federation

Representatives from the following agencies or bodies:

ACPO Business Lead on Homicide Working Group
ACPO Business Lead on Public Order and Public Safety
Association of Police Authorities
European Police College, Bramshill
Football Supporters Association
Home Office Crime Reduction and Community Safety Group
Home Office Policing Policy and Operations Directorate
The Independent Police Complaints Commission
National Council for Civil Liberties (Liberty)
London Communities Policing Partnership
National Co-ordinator for Domestic Extremism
National Policing Improvement Agency
The National Union of Journalists
Representatives and embassy attachés of police forces in Spain, Canada, Sweden, France and Germany.

The report is available in alternative languages and formats on request.

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This report is also available from the HMIC website
http://inspectorates.justice.gov.uk/hmic

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