



House of Lords  
House of Commons  
Joint Committee on Human  
Rights

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# Demonstrating Respect for Rights? Follow-up

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**Twenty-second Report of Session  
2008–09**

*Report, together with formal minutes and oral  
and written evidence*

*Ordered by the House of Lords  
to be printed 14 July 2009  
Ordered by the House of Commons  
to be printed 14 July 2009*

**HL Paper 141  
HC 522**  
Published on 28 July 2009  
by authority of the House of Commons  
London: The Stationery Office Limited  
£0.00

## Joint Committee on Human Rights

The Joint Committee on Human Rights is appointed by the House of Lords and the House of Commons to consider matters relating to human rights in the United Kingdom (but excluding consideration of individual cases); proposals for remedial orders, draft remedial orders and remedial orders.

The Joint Committee has a maximum of six Members appointed by each House, of whom the quorum for any formal proceedings is two from each House.

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## Summary

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In March of this year we published a report about a human rights based approach to policing protest: *Demonstrating respect for rights?*. We followed up that report with a short inquiry, following the protests during the G20 summit in London in April: our findings are published here.

The G20 protests were mostly peaceful in intent. However, the protests were marred by the death of a man, alleged assaults of protesters by police officers, the use of containment tactics against protesters and alleged refusals of some police officers to reveal their identity.

We recommend that:

- Every police force should have a widely advertised nominated point of contact, to make it easy for the police and protesters to discuss the protest before it takes place.
- The Government, the Independent Police Complaints Commission and HM Inspectorate of Constabulary should explore using independent negotiators to facilitate dialogue and to resolve disputes between police and protesters.
- Containment can be lawful, but only where it is proportionate and necessary to do so. Police need to take more account of the circumstances of individuals and should make efforts to allow people to leave as soon as possible. Toilets, water and medical facilities must be easily accessible to people contained.
- There should be a legal requirement for police officers to wear identification numbers when on duty or to identify themselves when asked.
- The Metropolitan Police should ensure that any exaggerated and distorted reporting in the media can be countered quickly and authoritatively

This report also provides an update on protest around Parliament, the use of counter-terrorism powers and civil injunctions, Section 5 of the Public Order Act 1986, protest in quasi-public space and the taking and retention of photographs.

Human rights based policing should help to improve public trust in the police. We look forward to police forces building on the work they have already done to place human rights at the heart of their operations. We also note that public trust in the police can be seriously damaged when accountability is seen to be lacking. In order to improve the public's view of police accountability for policing public order events, we recommend that the Metropolitan Police publish the Cass report into the death of Blair Peach in full.



# 1 Introduction

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1. We published our report on policing and protest in March, following a long inquiry during which we received evidence from protesters, those protested against, the police, NGOs, journalists, academics and the Government.<sup>1</sup> We received a welcome “early response” to the report from the then Home Office Minister, Vernon Coaker MP, on 20 April before the Government published its full response as a Command Paper on 29 May.<sup>2</sup>

2. Shortly after our report was published, on 1 April, the G20 summit in London was the focus of a number of protests, including the establishment of a “Climate Camp” outside of the European Climate Exchange on Bishopsgate. It was widely anticipated that the G20 demonstrations, coupled with the visit of many world leaders to London, would pose a significant challenge to the Metropolitan Police. There were a number of media reports in advance of the demonstrations suggesting that London would be the scene of violent protests<sup>3</sup> and a number of parliamentarians volunteered to observe the protests and the way in which they were managed by the police.<sup>4</sup>

3. In the event, although some protesters were violent – and a branch of the Royal Bank of Scotland in the City of London was attacked – the demonstrations were mostly peaceful. The police operation was extensively monitored by the media and the parliamentary observers and there was criticism of the tactics used to disperse the Climate Camp, which included the containment of people in Bishopsgate for several hours. HM Inspectorate of Constabulary (HMIC) was asked by the Metropolitan Police Commissioner on 28 April to “review the public order tactics deployed in response to significant protests involving disorder or the threat of disorder”.<sup>5</sup> The first part of HMIC’s report was published on 7 July and we have been able to take it into account in finalising our report. The second part of the report, which will include a systematic review of national and international practice, will be published later in the year.<sup>6</sup> The tragic death of Ian Tomlinson, a passer-by whose alleged assault by police officers is now the subject of investigation by the Independent Police Complaints Commission (IPCC), was also widely reported. Our terms of reference preclude consideration of individual cases and we have not inquired into the events surrounding the death of Mr Tomlinson as a result.

4. We decided to follow up our report in the light of these events, by taking evidence from Tom Brake MP (one of the parliamentary observers),<sup>7</sup> Frances Wright of Climate Camp’s legal team, Paul Lewis of the *Guardian*, Nick Hardwick, Chair of the IPCC, DCC Sue Sim of the Association of Chief Police Officers (ACPO) and AC Chris Allison of the

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<sup>1</sup> Seventh Report, Session 2008-09, *Demonstrating respect for rights: a human rights approach to policing protest*, HC 320-I, HL Paper 47-I (hereafter *P&P Report*).

<sup>2</sup> The “early response” is published with this report, Ev 44. The full response is Cm 7633.

<sup>3</sup> See paragraph 31.

<sup>4</sup> See, for example, Tom Brake MP’s report: <http://www.tombrake.co.uk/resources/sites/82.165.40.25-419339014ea056.83132309/G20+Report.doc>.

<sup>5</sup> *Adapting to Protest*, HMIC, Jul 09, p15 and Annex B.

<sup>6</sup> *Ibid*, p12.

<sup>7</sup> We received written evidence from the observers (published with Home Affairs Committee, *Policing of the G20 Protests*, Eighth Report of Session 2008–09, HC 418 (hereafter *Policing of the G20 Protests*)), a paper from Tom Brake MP (cited above) and a letter from Baroness Williams of Crosby (Ev 51).

Metropolitan Police on 12 May; and from Vernon Coaker MP, then Minister for Policing, Crime and Security, on 2 June. Our Chair, Andrew Dismore MP, also held an informal meeting with Dennis O'Connor QPM CBE, Her Majesty's Chief Inspector of Constabulary, on 9 June. We also watched DVDs showing events during the G20 protests, submitted by Mr Lewis and ACPO.

5. We also invited written evidence, which we have published with this report, on the G20 demonstrations and two other relevant issues which have arisen since our original report. Firstly, we devoted a section of our report to protest around Parliament. Between April and June, Parliament Square was the site of a major protest by Tamils, urging the UK to intervene in the Sri Lankan civil war. Although some Members of Parliament expressed sympathy for the Tamil cause, others drew attention to the problems caused in maintaining access to Parliament, particularly during periods in which the number of protesters rapidly increased and blocked Parliament Square and other roads.<sup>8</sup> In addition, the Speaker convened a meeting on 13 May involving the Metropolitan Police, the Home Office, relevant local authorities and the parliamentary authorities in order to discuss the management of protest around Parliament. We decided to ask the police and the Minister about these developments.

6. We also asked for evidence about the arrest on 13 April of over 100 people at a school in Nottingham for an alleged conspiracy to hold a demonstration inside a power station and thereby disrupt the operation of the power station.<sup>9</sup> None of the people arrested has yet been charged and Mr Hardwick said that there had been no complaints to the IPCC.<sup>10</sup> Without going into details about the arrests in Nottingham, DCC Sim said "if we were to take pre-emptive action it is because it has to be justifiable and proportionate" depending on the facts in the individual case.<sup>11</sup> We received very little written evidence on this issue,<sup>12</sup> so do not comment further at this time.<sup>13</sup>

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<sup>8</sup> Eg HC Deb, 18 May 09, cc 1187-90.

<sup>9</sup> See, for example, 'Police arrest 114 activists to foil power station 'raid'', *The Times*, 14 April 09.

<sup>10</sup> Q61.

<sup>11</sup> Q164 and Q162.

<sup>12</sup> See Climate Camp, Ev 58, Richard D North, Ev 91, and Liberty, Ev 85 paragraph 16.

<sup>13</sup> We also received written evidence on a number of other protest issues, including protests against Israeli actions in Gaza in January 2009 (Stop the War Coalition, EV 97) and demonstrations against Trident (S. Lasenby, Ev 76).



## 2 G20 protests

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7. The policing operation necessitated by the G20 summit in London was both large scale and complex to plan and implement. We note that the House of Commons Home Affairs Select Committee has concluded that overall “the policing of the G20 Protests was a remarkably successful policing operation”.<sup>14</sup> Whilst not wishing to dispute this conclusion, we note with concern that, as of 25 June, the Independent Police Complaints Commission had received 277 complaints about the policing of the G20 protests.<sup>15</sup> The HMIC report also recognised “the achievement of the Metropolitan Police Service on what, even by international standards, was a very demanding day”<sup>16</sup> but made a number of recommendations aimed at changing the police’s approach to policing protest, which are in tune with our own conclusions. We focus here on the key human rights issues that arose as part of the policing of the protests at the G20 summit, in particular dialogue between police and protesters; the use of containment (or “kettling”<sup>17</sup>); the relationship between the police and journalists; the identification of police officers; and issues about guidance and police training.

8. As we acknowledged in our earlier report, most protests in the UK take place without problem. However, the fact that the right to protest is facilitated by the police in many situations is not a comfort for those protesters who have experienced difficulties. There has been considerable criticism of the police’s handling of the G20 protests and we consider that the police must now take meaningful steps to regain public confidence and trust. Our recommendations are made in the spirit of assisting the police to consider ways of ensuring that human rights are central to their operations and of convincing the public that this will be the case in the future.

### Dialogue between police and protesters

9. In our earlier report on policing and protest we identified dialogue between police and protesters as key to ensuring that protests remain peaceful. We concluded that “the police should aim to have ‘no surprises’ policing: no surprises for the police; no surprises for protestors and no surprises for protest targets”.<sup>18</sup> We were disappointed to hear that both protesters and police involved in the G20 protests felt that the other group did not communicate adequately with them.

10. AC Allison told us that there were four protest marches on 1 April and “no organiser had come forward to us whatsoever ... in breach of the Public Order Act”.<sup>19</sup> In addition, the Metropolitan Police said that Climate Camp refused to give them all of the information necessary for effective policing of their protest, such as the location of the camp, and that they therefore needed to plan for all eventualities.<sup>20</sup> The Climate Camp Legal Team argued

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<sup>14</sup> Home Affairs Committee, *Policing of the G20 Protests*, Eighth Report of Session 2008–09, HC 418.

<sup>15</sup> Email to the Lords Clerk from the IPCC: also see Ev 73.

<sup>16</sup> HMIC Press Release, 7 Jul 09. The HMIC report includes a useful timeline, Annex D.

<sup>17</sup> See Q113.

<sup>18</sup> *P&P Report*, paragraph 204.

<sup>19</sup> Q83.

<sup>20</sup> Q79.

that they were unable to provide such information because they were themselves unaware of the location of the camp until the day of the protest.<sup>21</sup> They described numerous difficulties with contacting the police to discuss the protest, until a meeting was convened at a late stage by David Howarth MP.<sup>22</sup> The notes of that meeting show mutual frustration and distrust on the part of both the police and the Climate Camp Legal Team.<sup>23</sup>

11. Concerns were also expressed by the Climate Camp Legal Team about inadequate communication during the protest, particularly over the containment operation on Bishopsgate after 7pm.<sup>24</sup> We deal with this in more detail below.

12. We welcome AC Allison's commitment to speak with the Climate Camp Legal Team both about the G20 protest and any future protests that Climate Camp may wish to hold.<sup>25</sup> The Minister said "the police should make clear to protest groups and campaign groups who they think are to be involved, who they should contact" in order to initiate dialogue.<sup>26</sup> If protest groups also show a willingness to engage with the police, many of the problems associated with the policing of protest are capable of being resolved informally.

**13. For "no surprises" policing of protests to be effective, both protesters and police must share information. Whilst this happens in many cases, it is clear that at least some aspects of communication at the G20 protests were very poor. Mutual distrust was apparent and the police and protesters seemed to have different expectations of what the dialogue should be about and how it should proceed. This ineffective communication led to frustration on both sides and, possibly, to the police taking a more heavy handed approach to the Climate Camp protest than would otherwise have been the case.**<sup>27</sup>

**14. We were particularly disappointed to hear that the Climate Camp Legal Team should find it so difficult even to make contact with appropriate officers of the City of London and Metropolitan Police forces to discuss their protest. We recommend that there should be a nominated point of contact in every police force, whom protesters can contact in advance of protests taking place should they wish to do so. Police forces should take steps to advertise their point of contact and to explain why dialogue can be beneficial to all parties.**

15. We have previously argued against there being a legal requirement to provide notification of a static protest to the police and it would be neither desirable nor effective to require the police and protesters to engage in dialogue. Nevertheless, we strongly urge protest groups to talk to the police in advance of all protests, whether static or moving. Although we note the arguments put forward as to why the Climate Camp Legal Team could not inform the police of the location of their protest, it was clearly extremely unhelpful for the police not to know what was being planned until the day of the protest. It

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<sup>21</sup> Ev 60.

<sup>22</sup> Ev 59.

<sup>23</sup> Appendix 1 to David Howarth MP's memorandum to *Policing of the G20 Protests*, Ev 60.

<sup>24</sup> Q1.

<sup>25</sup> Q94.

<sup>26</sup> Q194.

<sup>27</sup> For arguments along this line see A. Carter, Ev 55.

is hardly surprising that, in such circumstances, the police should plan for scenarios which Climate Camp considered to be disproportionate.<sup>28</sup>

16. The Climate Camp Legal Team argued that dialogue between the police and protesters was unlikely to work in practice “except as another means to exert control” because of the “significant imbalance of power” between the two sides.<sup>29</sup> We asked the Minister about using arbitration to overcome these problems and he said he would “not entirely dismiss the idea.”<sup>30</sup> **In our view, this suggests that there is a case for considering the use of independent negotiators to facilitate dialogue between police and protesters in order to overcome distrust and tensions between the parties. Independent negotiators could have a role similar to ACAS in industrial disputes. Bodies such as the Independent Police Complaints Commission and HM Inspectorate of Constabulary may be able to assist in identifying and assisting such negotiators and there may be scope to draw on good practice in this area in Northern Ireland.** In our earlier report, we recommended that there should be a “quick and cost free system for resolving complaints and disputes in advance of protests taking place”.<sup>31</sup> The Government noted our recommendation and said it would “feed it into the current HMIC Review into G20”.<sup>32</sup> **We see merit in using independent negotiators to facilitate dialogue between police and protesters, where the parties encounter difficulties in communicating directly. Such negotiators could also help resolve disputes, as we previously recommended. We recommend that the Government consider this matter with relevant parties such as the Independent Police Complaints Commission and HM Inspectorate of Constabulary.**

## Containment

17. In our earlier Report, we noted the then very recent House of Lords judgment on containment, but did not draw any conclusions on the effect of that decision as it was handed down as our evidence sessions concluded.<sup>33</sup> However, given the use which the police made of the containment tactic (also known as “kettling”) by the police at the G20 protests, we deal with this issue in greater detail in this follow up Report.

18. The case of *Austin* concerned whether containing May Day protesters and others caught up in Oxford Street for a number of hours in 2001 was in breach of the right to liberty and security of the person (Article 5(1) ECHR). Unanimously, the House of Lords dismissed the appeal holding that Article 5(1) did not apply to a restriction on liberty (as distinct from a deprivation of liberty). The House of Lords decided that there was a distinction between Article 2 of Protocol 4 (which the UK has not ratified, but which provides for a right to liberty of movement within a state) and Article 5(1) (which protects against arbitrary deprivations of liberty). According to Lord Hope of Craighead, with whom the other Lords agreed, measures of crowd control do not fall within Article 5(1) so long as they are not arbitrary, are resorted to in good faith, are proportionate and are

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<sup>28</sup> Also see *Policing of the G20 Protests*, paragraph 33.

<sup>29</sup> Ev 60.

<sup>30</sup> Q242.

<sup>31</sup> *P&P Report*, paragraph 157.

<sup>32</sup> Government reply, Cm 7633, p12.

<sup>33</sup> *Austin v Commissioner for the Metropolis* [2009] UKHL 5.

enforced for no longer than is reasonably necessary.<sup>34</sup> The House of Lords considered that it was possible to balance Article 5(1) (which they accepted to be absolute) and look at the police's intention and the purpose for which the measure was pursued.<sup>35</sup>

19. The police used the tactic of containment in at least two places during the G20 protests: firstly in mid-afternoon near the Bank of England<sup>36</sup> and secondly at Climate Camp in Bishopsgate.<sup>37</sup> Tom Brake MP noted that shortly before the cordon was imposed at the Bank of England, the police were still letting people into the area and questioned why the police did so when it knew that it was trying to cordon off the area. However, he also noted that "shortly after 3.30 they had closed down the cordon because there had been violence ... and I support the police action in addressing what they were doing, but then, having contained everyone in the kettle, they were not allowing anyone to leave".<sup>38</sup>

20. The main complaints we heard about the police's use of containment were:

- *There was poor communication from the police.* Frances Wright said that there was no advance warning of the decision to contain but described witnessing "equipment going on officers and the numbers increasing and getting more solid" and therefore, based on her previous experience, was able to anticipate the police's intention to contain people. Climate Camp were informed, through their police liaison, that they "were being contained because something had kicked off in Moorgate and that we would be contained for a couple of hours and then we would be released in groups of 20".<sup>39</sup> She also suggested that even if announcements were made later in the evening, these were not intelligible within a large area.<sup>40</sup>
- *People were unable to leave the cordon.*<sup>41</sup> Tom Brake MP described taking a number of people, including a man who needed to leave to care for his 83 year old mother and a diabetic who needed to get insulin, to the police to ask for them to be released. All were refused permission to leave.<sup>42</sup> He told us that the police suggested that the protesters should have planned to be contained before attending the protest.<sup>43</sup> Frances Wright accepted that there may have been isolated incidents of the police allowing people to leave, but told us that she did not see any of them.<sup>44</sup> She told us that she had heard reports that people needing medical treatment were told that they were only allowed to leave if they were treated by police medics and if they gave their name and address and had their photograph taken.<sup>45</sup> Tom Brake

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<sup>34</sup> Paragraph 37.

<sup>35</sup> Paragraph 27. Also see D. Mead, Ev 86 and Liberty, Ev 81, paragraph 4.

<sup>36</sup> Q14.

<sup>37</sup> Q11.

<sup>38</sup> Q14.

<sup>39</sup> Q11.

<sup>40</sup> Q16. Also see A. Carter, Ev 55.

<sup>41</sup> Q26. Also see Defend Peaceful Protest, Ev 62.

<sup>42</sup> Q24.

<sup>43</sup> Q14.

<sup>44</sup> Q12.

<sup>45</sup> Q13.

MP told us that someone with a suspected broken arm was told that he would only be allowed to leave unaccompanied.<sup>46</sup>

- *Police used force against protesters within the cordon.* Tom Brake MP told us that the police charged the crowd within the contained area. Describing this as “a terrifying experience” he said:

If you are in the middle of a crowd which is predominantly peaceful, but at one side of the crowd where there are violent demonstrators who are being charged by the police, of course they run back into the body of the crowd who are then made much more vulnerable, I think, because of that action. There did not seem to be any logic to the charges, then falling back slightly, then waiting, then a further charge; it did not seem to be achieving anything, as far as I could tell, in policing terms. It certainly was not helping to identify who the troublemakers were.<sup>47</sup>

- When released from the cordon, protesters were searched and asked to provide details.<sup>48</sup>
- Facilities for protesters, such as access to toilets and water, were not available.<sup>49</sup> Tom Brake MP said:

One of the more significant issues for someone who is there as a peaceful protester is actually trying to find out what is going on and trying to find anyone in authority whom they are able to talk to in order to obtain information of that nature. Our experience was that, when we went to one police cordon to ask for things like water, we were immediately directed to the next police cordon and then the next, so you ended up going round and round in circles without actually ever being able to access any information to assist.<sup>50</sup>

21. In response to questions from us on this issue, AC Allison said that the police had learnt lessons from policing the May Day protests which gave rise to the *Austin* case and that although they did not start the day of the G20 protests intending to use containment, it was a feature of their contingency planning.<sup>51</sup> He told us that initially cordons were put in place to mark the edges of the demonstrations and that people were allowed to enter and exit the cordons. After a time, when these were violently attacked, the Bronze Commander decided that it was appropriate, in order to prevent serious disorder from spreading across the city, to contain the crowds.<sup>52</sup> Responding to the specific criticisms of the use of containment at G20, the police told us that:

- Containment is very rarely used by the police.<sup>53</sup>

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<sup>46</sup> Q24.

<sup>47</sup> Q14 also see Q12 (Frances Wright). Also see D. Howarth MP, Ch 3, published in *Policing of the G20 Protests*, Ev 55.

<sup>48</sup> Q14. Also see Fitwatch, Ev 65, B. Pace, Ev 93, Liberty, Ev 82 paragraphs 7-8, Climate Camp, Ev 57.

<sup>49</sup> Q24. Also see Defend Peaceful Protest, Ev 62 and Liberty, Ev 82 paragraph 6.

<sup>50</sup> Q25.

<sup>51</sup> Q89.

<sup>52</sup> Q105.

<sup>53</sup> Q122.

- The majority of people within the contained areas would have known that containment had been imposed.<sup>54</sup>
- Although “some people who were contained within that cordon ... were not violent or would not have wanted to be violent” and were not able to leave,<sup>55</sup> it is not possible for the police to distinguish between violent and non-violent protesters.<sup>56</sup>
- Officers on the cordons were briefed by senior officers that they could exercise their discretion to allow people who were not part of the protest to go.<sup>57</sup>
- “Standard recording procedures” permit the police to search individuals, ask them for their names and addresses and video them, if they are concerned that people within the cordon have committed offences.<sup>58</sup>
- No specific time limit was set for the length of the containment, but the tactic was regularly reviewed to see if people could be released.<sup>59</sup>
- Facilities were available in some areas. Water was available at at least one cordon but water bottles were not being handed out in case they were used as missiles. Some toilets were available.<sup>60</sup>

22. AC Allison suggested that ultimately the question of whether or not the use of containment is lawful is a matter for the courts and that officers would need to show that the use of the tactic was proportionate, legal, necessary and accountable.<sup>61</sup> In oral evidence, AC Allison said that the eight criteria set out by Lord Neuberger<sup>62</sup> in *Austin* were met in the containment at G20.<sup>63</sup> AC Allison provided supplementary written evidence in which he disputed that Lord Neuberger provided any sort of measure against which future public order containments can be tested.<sup>64</sup> Instead, he pointed to Lord Neuberger’s comment that the question of whether or not *Austin* was deprived of her liberty was “very much a fact-sensitive question”<sup>65</sup> and suggested that the eight criteria were not an objective test, but were instead set out by the House of Lords as the most significant considerations which applied in Ms Austin’s case.<sup>66</sup> However, he accepted that, even if a measure of crowd

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<sup>54</sup> Q106.

<sup>55</sup> Qq107-8 and Q110.

<sup>56</sup> Q112.

<sup>57</sup> Q110 and Q121.

<sup>58</sup> Q131.

<sup>59</sup> Q109.

<sup>60</sup> Q92.

<sup>61</sup> Qq114-116.

<sup>62</sup> in paragraph 57 of his judgment.

<sup>63</sup> Q119.

<sup>64</sup> Ev 50.

<sup>65</sup> Paragraph 56.

<sup>66</sup> Ev 50.

control does not fall within Article 5(1), there is “still a burden on police to show that the actions taken are lawful under domestic law”.<sup>67</sup>

23. DCC Sim told us that although ideally containment should involve clear communication with protesters, use of the tactic for the minimum period necessary, and flexibility to allow people to leave, these factors had to be weighed against “the absolute operational issues on the day”.<sup>68</sup> She also said that the ACPO manual on *Keeping the Peace* contained the issues that need to be considered in relation to containment.<sup>69</sup>

24. The current ACPO manual on *Keeping the Peace* contains very little guidance on containment, however. In the section dealing with tactical “silver” issues, it simply states:

***Containment***

- Keeps incident/event localized
- Buys time whilst awaiting extra resources
- May be used to protect vulnerable property/persons
- Resource intensive, and can be difficult to maintain
- Must have a clear legal basis and be subject to regular review
- Exit strategy required.<sup>70</sup>

We also note the HMIC’s finding that the silver tactical plan for the G20 protests did “not explicitly address the legal criteria set out in *Austin*”.<sup>71</sup> The HMIC has described the “treatment of the spectrum of protest activity” in *Keeping the Peace* as “insufficient”.<sup>72</sup>

25. DCC Sim subsequently pointed out that the manual was written before the House of Lords’ judgment in *Austin* and undertook to take account of the decision in *Austin* in revising the manual.<sup>73</sup> She also told us that whilst she believed that the use of the containment tactic complied with the House of Lords’ decision, she had asked ACPO’s Human Rights Working Group to “examine the judgment in detail and provide opinion regarding operational implications”.<sup>74</sup>

26. The then Minister for Policing, Crime and Security, Vernon Coaker MP, told us in oral evidence that “containment is a tactic that should be available to the police to use when they think it is appropriate to do so ... in order to prevent serious problems or serious difficulties”.<sup>75</sup> He acknowledged that containment must be reasonable and proportionate

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<sup>67</sup> Ibid.

<sup>68</sup> Q124.

<sup>69</sup> Q127.

<sup>70</sup> ACPO, *Keeping the Peace*, p.18.

<sup>71</sup> *Adapting to Protest*, HMIC, Jul 09, p45.

<sup>72</sup> Ibid, p62.

<sup>73</sup> Ev 47. DCC Sim said she had commissioned the review in the early part of 2008.

<sup>74</sup> Ev 46.

<sup>75</sup> Q197.

in the circumstances and accepted that permeability of the cordon, police communication, access to toilets and medical help, and releasing people innocently caught up in the protest were all important issues.<sup>76</sup>

27. We are disappointed that the *Keeping the Peace* manual on public order had not been amended by the time of the G20 protests to reflect the judgment in *Austin*. In our view, the containment section of the manual at the time of the G20 protests was deficient in a number of respects and would have provided little concrete guidance to officers making strategic or operational decisions on the day. We are therefore pleased to hear that ACPO is proposing to revise *Keeping the Peace* and we would be grateful for the opportunity to receive a draft of the relevant section so that we can assist ACPO in getting it right.

28. In our view, containment can be a useful and lawful tactic in some circumstances but it must be used in a proportionate manner with due regard to the human rights of the people contained. This requires the police's careful consideration in advance and during the protest of whether the tactic overall remains necessary and proportionate. It also requires individual officers policing the perimeter of the contained area to consider whether, in an individual case, it is appropriate to maintain that cordon for that individual, given his or her particular circumstances. It is this second aspect of containment – respecting the rights of individuals being contained – which we consider that the Metropolitan Police did not give sufficient weight to during the G20 protests. In our view, it would be a disproportionate and unlawful response to cordon a group of people and operate a blanket ban on individuals leaving the contained area, as this fails to consider whether individual circumstances require a different response.

29. For the tactic of containment to be operated in a manner which complies with human rights, we consider that the following issues must be addressed:

- Containment should only be used where it is necessary and proportionate to do so generally and in relation to each individual contained.
- It should be imposed for the minimum period of time necessary.
- It should be regularly reviewed during each containment in order to see whether it remains necessary and proportionate.
- There must be effective, clear and timely communication between the police and those within the containment.
- The police should establish a means of considering individual circumstances and identifying who can be let out: the presumption should be that people should be allowed to leave where it is possible for them to do so.
- Contained individuals should be given access to facilities such as toilets, medical assistance and water.

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<sup>76</sup> Qq 200, 204.



**We note that the HMIC report on the G20 protests includes a similar list<sup>77</sup> and we recommend that all of these matters should be addressed in the revised ACPO guidance.**

30. We are aware that *Austin* will be considered by the European Court of Human Rights in due course. The Court may disagree with the House of Lords' judgment that Article 5(1) was not engaged and may disagree with the House of Lords' approach to balancing Article 5 against the police's intention and the purpose for which the measure was pursued. We look forward to the Court's judgment and hope that it will provide further guidance on this difficult area of law and practice.

## G20 protests and the press

### *Media reporting of the build up to the G20 protests*

31. The Climate Camp Legal Team, in its written evidence, commented on "increasing concern that the police were talking up the potential for violence in their press briefings".<sup>78</sup> Commander Bob Broadhurst, "Gold Commander" for the G20 operation, was reported as having spoken about activists planning in an "unprecedented" way to "stop the city". The Metropolitan Police's press spokesman, Simon O'Brien, was reported as having described the police as "up for it", the implication being that the police were ready for violence. There was talk of old anarchist groups reforming and using new technology to thwart the police.<sup>79</sup> Paul Lewis of the *Guardian* cited a briefing provided by Commander Broadhurst on 20 March in which it was alleged that he "told reporters of the possibility that protesters might storm buildings, damage property and bring large areas of London to a standstill".<sup>80</sup>

32. AC Allison denied that the Metropolitan Police had talked up the prospect of violence. He said that police spokesmen had not mentioned the possibility of violence and had emphasised that plans to disrupt the City were "aspirational".<sup>81</sup> Quoting Commander O'Brien in full, he showed how his comment on the police being "up for the [G20] operation in all of its complexities" had been taken out of context and applied solely to the public order elements of the operation.<sup>82</sup> He took issue with Mr Lewis's recollection of Commander Broadhurst's comments and said "the last thing we wanted to do was hype this up in any way, because we recognised that if we, in any way, hyped this up, all we were likely to do is encourage more people to come out and commit disorderly acts".<sup>83</sup>

33. We have had the opportunity to review the transcripts of the press briefings provided by Commanders Broadhurst and O'Brien and they are consistent with the oral evidence we heard from AC Allison. The briefings clearly set out the police's concerns that the G20 summit would create some difficult public order challenges, without forecasting violence

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<sup>77</sup> P54. Also see *Policing of the G20 Protests*, ch4.

<sup>78</sup> Ev 58.

<sup>79</sup> For example, "G20 summit: Britain's biggest ever policing operation launched", *Telegraph*, last internet update 3.4.09; "Office staff warned of confrontation as City braces for mass G20 protests", *Observer*, 22.3.09.

<sup>80</sup> Ev 78 and Q84. Also Q19 and *Policing of the G20 Protests*, paragraphs 25-6.

<sup>81</sup> Q81.

<sup>82</sup> *Ibid.*

<sup>83</sup> Qq84-88.

or buildings being stormed and without giving the impression that the police were relishing the opportunity for a fight.<sup>84</sup> Consequently, **we conclude that the main responsibility for talking up the prospect of violence and severe disruption rests with the media, not the police.** As AC Allison said, “our briefings were designed to say exactly what our intelligence was ... sadly, the media took it in a particular way and started reporting it in a particular way”.<sup>85</sup>

34. AC Allison said that the police had responded to exaggerated press comment about the G20 protests by briefing the Chairman of the Metropolitan Police Authority to undertake a round of interviews to argue that the prospect of violence had been over-emphasised.<sup>86</sup> We welcome this approach, but suggest that the Metropolitan Police could have done more to respond to exaggerated and distorted press coverage of its briefings. We note the conclusions of the parliamentary observers’ report that “aspects of the media strategy employed by the police prior to the demonstrations may have contributed to escalating expectations of violence”.<sup>87</sup> **We recommend that the Metropolitan Police review how the media reported its briefings on the G20 protests with a view to ensuring that exaggerated and distorted reporting can be countered with a quicker and more effective and authoritative response in future.**

### *Treatment of journalists*

35. In our earlier report, we set out some of the problems experienced by journalists covering protests, including being photographed and having details taken (also see paragraph 56 below). We concluded that “effective training of front line police officers on the role of journalists in protests is vital” and called on police forces to disseminate the guidance agreed between ACPO and the National Union of Journalists.<sup>88</sup>

36. We received evidence from journalists about mistreatment during the G20 protests, including journalists being detained behind cordons and subjected to what the National Union of Journalists described as “deliberate assaults” by the police.<sup>89</sup> We also witnessed video footage of journalists being ordered away from an area outside the Royal Exchange by a City of London police inspector, who erroneously cited section 14 of the Public Order Act 1986 as justification for moving the journalists. After some difficulty, we received a full explanation of this event from the City of London Police.<sup>90</sup> **We reiterate our recommendation that police forces must do more to ensure that officers fully appreciate the role of the media and do not subject journalists to mistreatment of any sort while they are covering protests.**

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<sup>84</sup> See Q234.

<sup>85</sup> Q82.

<sup>86</sup> Q81.

<sup>87</sup> Executive Summary, paragraph 2.

<sup>88</sup> *P&P Report*, paragraph 200.

<sup>89</sup> Ev 89 paragraph 12.

<sup>90</sup> Ev 48. Also see *Policing of the G20 Protests*, paragraphs 17, 20.

## Identification of officers

37. We received evidence complaining that some police officers had not displayed their identifying numbers during the G20 protests, or had refused to identify themselves when asked, and were thus not easily accountable for their actions.<sup>91</sup> We are surprised that supervising officers did not deal with this at the time. This issue has been raised before, including, for example, following the Countryside Alliance demonstration in Parliament Square in 2004.<sup>92</sup> The Government, ACPO, the Metropolitan Police and the IPCC were united in insisting that police officers should display their identifying numbers, or identify themselves, when on public duty.<sup>93</sup> ACPO guidance recommends that constables and sergeants should wear their identifying numbers: higher ranked officers should identify themselves when asked and their rank is indicated by insignia.<sup>94</sup> This is a matter of good practice rather than an enforceable requirement.<sup>95</sup>

38. The then Minister told us it should be “an absolute expectation” that police constables and sergeants wear identification numbers but he was “not sure it should be made a legal requirement”.<sup>96</sup> He went on to say “you have to ask yourself, if you have got a very, very small number of officers who are determined to obscure their number, even if it is a legislative framework, whether it would make much difference to them”.<sup>97</sup>

39. We welcome the commitment from AC Allison that the Metropolitan Police is increasing its efforts to ensure that the ACPO guidance on the identification of police officers is followed. However, we were not provided with a convincing reason why police officers determined not to identify themselves would act differently if this remained simply a matter of good practice. Nor were we persuaded by the Minister’s argument that police officers determined not to identify themselves would maintain this position even in the event of identification being a legal requirement. The Home Affairs Committee suggested that resource constraints might explain why some officers do not always wear identification numbers and called for senior officers to “take personal responsibility for ensuring that all officers are displaying their identification numbers” and for individual officers to “be provided with enough numbers so that these can be worn at all times and on all equipment”.<sup>98</sup> **Correct identification of police officers is crucial to ensuring that the police are accountable for their actions, including the extent to which they respect the human rights of the people they deal with. We recommend that it should be a legal requirement for police officers to wear identification numbers while on duty or to identify themselves when asked.** We note that Baroness Miller of Chilthorne Domer has tabled an amendment to the Policing and Crime Bill on this issue, and we look forward to this issue being explored further in that context.

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<sup>91</sup> Liberty, Ev 83-84 paragraphs 10-12, B. Pace, Ev 94, Qq 27-28.

<sup>92</sup> IPCC, Ev 74 paragraph 19 and IPCC, *Report into the Policing of the Countryside Alliance Pro-Hunting Demonstration on Wednesday 15 September 2004 at Parliament Square, London*, paragraphs 145-46.

<sup>93</sup> Qq 143, 149. IPCC, Ev 75 paragraph 26 and Liberty, Ev 83-84 paragraphs 10-12.

<sup>94</sup> Qq142-43.

<sup>95</sup> Qq 147-48.

<sup>96</sup> Q222.

<sup>97</sup> Q226.

<sup>98</sup> *Policing of the G20 Protests*, paragraph 23.

## Human rights awareness

40. Our earlier report included a number of recommendations on police training, leadership and good practice.<sup>99</sup> We pointed to numerous examples of good practice in policing protest in Northern Ireland, where respect for human rights has been explicitly integrated into policy and practice.<sup>100</sup> It is striking that the recent report on the G20 protests by the Home Affairs Committee also drew attention to inadequate police training, although in terms of managing public order issues in general.<sup>101</sup> There are some positive developments in this area, including the revision of *Keeping the Peace*,<sup>102</sup> the work of ACPO's human rights working group<sup>103</sup> and the appointment of Sir Hugh Orde, former Chief Constable of the Police Service of Northern Ireland, as President of ACPO.<sup>104</sup> **We remain concerned, however, that there is a long way to go before promoting and protecting human rights is central to police policy, training and operations. We hope to return to this issue before the end of this Parliament to check on the progress being made by ACPO.**

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<sup>99</sup> *P&P Report*, paragraphs 141-62.

<sup>100</sup> *Ibid*, paragraphs 163-69.

<sup>101</sup> *Policing of the G20 Protests*, paragraph 60.

<sup>102</sup> See paragraph 25 above.

<sup>103</sup> Ev 47 and Cm 7633, p11.

<sup>104</sup> *Guardian*, "New Acpo chief wants human rights to be put at core of policing", 21 Jun 09.

### 3 Protest around Parliament

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41. There is a consensus that the provisions of the Serious Organised Crime and Police Act 2005 (SOCPA) relating to protest around Parliament have not been successful and should now be repealed. The Government has undertaken to use the forthcoming Constitutional Renewal Bill to repeal the relevant sections of SOCPA. Our recommendations about how the SOCPA provisions should be replaced, and the Government's responses, are summarised below.

- We argued that “the maintenance of access to Parliament is a persuasive reason to restrict the rights to protest and to freedom of assembly within the areas directly around the Palace of Westminster and Portcullis House”.<sup>105</sup> The Government agreed that “the ability of Parliament to exercise its democratic functions” was the “only possible grounds” for different public order provisions to apply in the vicinity of Parliament compared to the rest of the country.<sup>106</sup>
- The Government agreed with our recommendation that the legal framework regulating protest around Parliament should be the same on sitting and non-sitting days.<sup>107</sup>
- The Government agreed with our recommendation that the Public Order Act 1986 should be amended to enable conditions to be placed on static protests where they seriously impede, or it is likely that they will seriously impede, access to Parliament.<sup>108</sup> We tabled amendments to the Policing and Crime Bill at Report stage in the House of Commons in order to implement this recommendation but they were not selected.<sup>109</sup>
- The Government agreed with us that there should be no legal requirement for protests around Parliament to be notified in advance to the police. It cited the Tamil protest as evidence of how “a compulsory prior notification scheme is impractical when communities feel very strongly about an issue and want to make their views known quickly”.<sup>110</sup>
- We recommended that the Government should work with the relevant authorities to develop alternative arrangements for managing noise levels around Parliament.<sup>111</sup> The Government said it was “not aware of any evidence that noise around Parliament has stopped Parliament exercising its democratic functions” but

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<sup>105</sup> *P&P Report*, paragraph 126.

<sup>106</sup> Cm 7633, p8.

<sup>107</sup> *P&P Report*, paragraph 126 and Cm 7633, p8.

<sup>108</sup> *P&P Report*, paragraph 137 and Cm 7633, p10.

<sup>109</sup> *P&P Report*, paragraph 139 and JCHR, Tenth Report, Session 2008-09, *Legislative Scrutiny: Policing and Crime Bill*, HL Paper 68, HC 395, Paragraphs 1.120 to 1.127.

<sup>110</sup> *P&P Report*, paragraph 128 and Cm 7633, pp9-10.

<sup>111</sup> *P&P Report*, paragraph 133,

said it was liaising with the relevant authorities to identify the powers that exist to deal with noise.<sup>112</sup>

- The Government agreed with our view that there is no good argument to support the introduction of arbitrary limits on the duration of protest around Parliament, but rejected our suggestions that the police should have a power to impose conditions on protests in order to facilitate other protests and that the SOCPA power to impose conditions relating to security issues should be continued.<sup>113</sup>
- We expressed concern that the Greater London Authority may consider creating new byelaws to manage protest in Parliament Square which could conflict with the Government's preferred approach: the Government said it was committed to ensuring that there would be a co-ordinated approach to the repeal of SOCPA.<sup>114</sup>

42. We welcome the positive response to so many of our recommendations, particularly our suggestion that the Public Order Act 1986 should be amended to give the police powers to maintain access to Parliament. The Tamil demonstration in Parliament Square again illustrated the necessity for such police powers. The rapid mobilisation of hundreds, or at times thousands, of protesters, without notice,<sup>115</sup> occasionally blocked Carriage Gates and the protest was described by AC Allison as “one of the most challenging protests that I have had to deal with in my policing career”.<sup>116</sup> In oral evidence, the Minister commended the “very good policing operation” and said:

I think the police are doing a very good job in policing that demonstration, facilitating protest, ensuring that there is access to Parliament and maintaining, as far as possible, public order. I personally do not believe the fact that something does not look nice is a reason that you should stop a protest.<sup>117</sup>

43. The Tamil protesters were initially not authorised under SOCPA, but later sought authorisation for a protest involving up to 50 people. AC Allison said that “most of the time the numbers have been within the due amount” but on occasions the number of people involved was clearly much greater.<sup>118</sup> In oral evidence last year, AC Allison suggested that police discretion in the application of the SOCPA provisions was limited because otherwise it “becomes very difficult for us as a police service” to decide “what is acceptable unlawful activity and what is unacceptable”.<sup>119</sup> Consequently, we asked him why the police had not taken a stricter line against the Tamil protesters. He said that “we are in a very different place in terms of the general view of the SOCPA law that was held, not necessarily just by us but by the Crown Prosecution Service”.<sup>120</sup> He reiterated his call for

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<sup>112</sup> Cm 7633, p9.

<sup>113</sup> *P&P Report*, paragraph 134 and Cm 7633, p10.

<sup>114</sup> *P&P Report*, paragraphs 135-36 and Cm 7633, p10.

<sup>115</sup> Q172.

<sup>116</sup> Q170.

<sup>117</sup> Q249.

<sup>118</sup> Qq170, 173.

<sup>119</sup> *P&P Report*, Q227.

<sup>120</sup> Q177.

“some clarity for the future about what the new law will say to enable us to manage what is a very challenging environment”.<sup>121</sup>

44. The careful management of the Tamil protest in our view struck an appropriate balance between protecting the right of the Tamils to protest in Parliament Square and the need to maintain access to Parliament for Members, staff and the public. It is notable that we received no evidence from individual Tamils or their organisations complaining about how their protest was handled by the police.<sup>122</sup> The protest did cause inconvenience to some, but this is a small price to pay for living in a vibrant democracy. **We welcome AC Allison’s realistic attitude towards the enforceability of the SOCPA provisions but are concerned at the ambiguous legal position created by the long delay since the Government first announced that the provisions would be repealed. We also remain concerned that the police are unclear about the minimum level of access to Parliament which they are required to maintain.**

45. The Government has undertaken to repeal the SOCPA provisions in the forthcoming Constitutional Renewal Bill, the introduction of which was promised during the current parliamentary session and which is one of the bills featured in the draft legislative programme for 2009-10. The former Speaker, Michael Martin MP, initiated a meeting of relevant parties to discuss how the various outstanding issues could be resolved. **We hope that Speaker Bercow may be willing to carry on the discussions initiated by his predecessor on resolution of the various outstanding issues.**

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<sup>121</sup> Ibid.

<sup>122</sup> See M. Gallastegui, Ev 69.

## 4 Other issues

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### Counter-terrorism powers

46. Our report commented on two powers introduced as counter-terrorism measures which witnesses claimed were being used too frequently or inappropriately by the police, as public order measures. Section 44 of the Terrorism Act 2000, a stop and search power which the police can use without reasonable suspicion that an offence has been committed if authorisation to use the power has been given by a senior officer, has long proved controversial.<sup>123</sup> Lord Carlile of Berriew has recently commented on the “poor or unnecessary” use of section 44 and warned that there was little or no evidence that the widespread use of the power had the potential to prevent a terrorist attack.<sup>124</sup> The Government’s reply reiterated that “counter-terrorism powers should only be used for counter terrorism purposes” but also noted that protests could be used to mask reconnaissance and surveillance of targets by terrorists. It pointed to revised guidance issued by the National Policing Improvement Agency (NPIA) in November 2008.<sup>125</sup>

47. In April, the Ministry of Justice published statistics showing that the number of stops and searches under section 44 of the Terrorism Act had tripled in 2007/08 to more than 117,000. Fewer than one per cent of the people affected had been arrested for a terrorism offence.<sup>126</sup> The use of the power is particularly prevalent in London and has been disproportionately used against black and Asian people.<sup>127</sup> We also received further written evidence alleging that section 44 had been inappropriately used.<sup>128</sup> In oral evidence, AC Allison described section 44 as “a power that is used by officers to both reassure the individuals around and, also, act as deterrent for those who would wish to commit terrorist acts”.<sup>129</sup> He said that, in future, however:

We are now going to use it in a far more targeted way across London. So around iconic cities, as a result of intelligence or information, in certain areas in London, we will start trying to use those powers, recognising the public concern about it.<sup>130</sup>

48. The Minister described the Metropolitan Police’s decision to review its use of section 44 as “an important step forward”, declaring that “the tanker is turning ... CT powers should not be used in an ordinary public order sense”.<sup>131</sup> **We share the Minister’s attitude to counter-terrorism powers and we deplore the obvious overuse of section 44 of the Terrorism Act 2000 in recent years. We do not agree with the suggestion from AC Allison that the public are likely to be reassured by the routine use of stop and search**

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<sup>123</sup> *P&P Report*, paragraph 93.

<sup>124</sup> Report on the operation in 2008 of the Terrorism Act 2000 and part 1 of the Terrorism Act 2006, Lord Carlile of Berriew QC.

<sup>125</sup> Cm 7633, p5.

<sup>126</sup> Ministry of Justice, ‘Statistics on Race and the Criminal Justice System 2007/8’, p29

<sup>127</sup> *Ibid* and *Guardian*, “A success rate of 1 in 1,000 shows stop and search doesn’t work”, 6 May 09.

<sup>128</sup> Supplementary memorandum from Simon Gould.

<sup>129</sup> Q156.

<sup>130</sup> *Ibid*. Also *Guardian*, “Police to severely curtail [sic] use of stop and search powers”, 6 May 09.

<sup>131</sup> Q272.



**powers. Targeting likely offenders is a proportionate response to the terrorist threat and we look forward to the Metropolitan Police adopting this practice throughout London.**

49. We were concerned from the Minister's evidence that the Home Office appears to have difficulties in persuading the police to follow Government policy in respect of the use of counter-terrorism powers. The Climate Camp Legal Team told us about environmental protesters subject to stop and search under section 44 while sitting in a café.<sup>132</sup> We asked the Minister for his view on how this could have been compatible with the NPIA guidance and he said :

I think there is an issue between guidance that is put out at the centre and ensuring that it always happens in exactly the way you would want at the front line ... what we also need to do is to recognise that guidance needs to be put into practice on the front line, and that requires training, that requires leadership and that requires support.<sup>133</sup>

We comment on this in our conclusion to this report.

50. The other counter-terrorism issue we raised concerned section 76 of the Counter-Terrorism Act 2008, which makes it an offence to elicit or attempt to elicit information about a constable which is of a kind likely to be useful to a person involved with terrorism. We noted media reports that this could criminalise anyone who took a photograph of a police officer.<sup>134</sup> The Government agreed with our recommendation that guidance should be issued to police forces about the scope of the power "making clear that it does not criminalise legitimate photographic or journalistic activity".<sup>135</sup> **We welcome the Government's commitment to develop and issue guidance on the scope of this power and the clear statement that it is not intended to criminalise legitimate photographic or journalistic activity.**

## Civil injunctions

51. We noted in our report that the Protection from Harassment Act 1997 is sometimes being used against protesters. We did not disagree with this development but argued that notice should always be given of applications for injunctions under the Act which related to protest activities and that the ordinary presumption that such applications should be heard in private should be reversed in such cases.<sup>136</sup> The Government's response suggested that there was insufficient evidence of the need for change to the Civil Procedure Rules but stated that "the Government would be happy to look at this if further evidence of a problem were provided".<sup>137</sup> In oral evidence, the Minister went further and defended the current system, arguing that:

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<sup>132</sup> *Demonstrating Respect for Rights? The Policing of the Climate Camp in the City on 1 April 2009*, Climate Camp Legal Team, 18 Apr 09, p7.

<sup>133</sup> Qq288-89.

<sup>134</sup> *P&P Report*, paragraphs 94-95.

<sup>135</sup> Cm 7633, pp5-6.

<sup>136</sup> *P&P Report*, paragraphs 96-100.

<sup>137</sup> Cm 7633, page 6.

Often, even when the injunctions are being used for protests ... it can be something where somebody is being intimidating, where somebody has been threatening or abusive, and to be able to hold [hearings] in private is, I think, something which is important and is an effective way of dealing with the process.<sup>138</sup>

52. The Protection from Harassment Act 1997 was introduced to deal with stalking and was not originally envisaged as a tool to be used against protesters. While we do not, in principle, oppose the use of the Act in this context,<sup>139</sup> we can see the case for reviewing the Civil Procedure Rules relating to the use of injunctions against protesters to make sure they are fair and proportionate. In our view, the evidence we received from the Radley Lake protesters provides compelling reasons as to why the Rules should at least be reviewed.<sup>140</sup>

**53. We were surprised that the Government’s reply to our report did not give a view on our recommendations on the use of civil injunctions against protesters, other than to question the evidence base for them, and that in oral evidence the Minister appeared to argue that they were wrong in principle. We urge the Government to review the evidence we published on this point and to look again at our detailed recommendations about changes to the Civil Procedure Rules. If the Government remains of the view that the current Rules remain appropriate despite the Protection from Harassment Act being applied to protesters in a way not envisaged in 1997, we expect the Government to set out the reasons for its view in full.**

## Section 5 of the Public Order Act 1986

54. Section 5 of the Public Order Act gives the police a wide discretion to arrest individuals for using “threatening, abusive or insulting” words or behaviour in certain circumstances. We expressed concern that criminalising insulting words or behaviour would disproportionately stifle freedom of expression and recommended that the word “insulting” should be deleted from the Act.<sup>141</sup> The Government agreed that our recommendation had “merit in the context of the policing of protest” but noted that “the implications of the amendment are far reaching for the policing of lower lever disorder on the street and for the racially and religiously aggravated section 5 offences”. It undertook to consider the matter further with interested parties, including ACPO and the Ministry of Justice.<sup>142</sup> The IPCC also welcomed our recommendation.<sup>143</sup> We explored the issue further in oral evidence and the Minister said he would report back to us in October.<sup>144</sup> **We welcome the Minister’s commitment to give careful consideration to amending section 5 of the Public Order Act to remove the reference to “insulting” words and behaviour and look forward to receiving and scrutinising the conclusion his successor reaches in the autumn.**

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<sup>138</sup> Q262.

<sup>139</sup> But see Ev 69-71 for an alternative view.

<sup>140</sup> *P&P Report*, Ev 139-41.

<sup>141</sup> *P&P Report*, paragraphs 80-85.

<sup>142</sup> Cm 7633, pp 4-5.

<sup>143</sup> Ev 74, paragraph 20.

<sup>144</sup> Qq252-58.

## Quasi-public space

55. We received some evidence that the privatisation of ostensibly public space, particularly shopping centres, was limiting the right to protest in some areas. We called on the Government to “consider the position of quasi-public space to ensure that the right to protest is preserved”.<sup>145</sup> The Government’s reply acknowledged our concern and indicated that the Home Office would discuss the issues with local authorities and relevant NGOs.<sup>146</sup> **The Minister undertook to provide us with a progress report later in the year and we welcome this commitment.**<sup>147</sup>

## Taking and retention of photographs

56. The Court of Appeal gave judgment on 21 May 2009 in the case of *Wood*. This concerned the taking and retention of photographs of an anti-arms trade campaigner at the AGM of an organiser of trade fairs for the arms industry by the police’s Forward Intelligence Team. The Court held, by a majority of two to one, that the taking and retention together of the photographs of Mr Wood, who did not have any previous convictions and who the police could have quickly established had not committed any offences, was disproportionate and breached the right to respect for private life (Article 8 ECHR).<sup>148</sup> We asked the Government several questions about the implications of the *Wood* judgment and received a reply from the new Minister, David Hanson MP, dated 30 June.<sup>149</sup> He said “the continuing retention of such photographs 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 the light of the Court of Appeal ruling”. The Home Office is working with ACPO to develop guidance on this issue and the Minister undertook to report back to us in the autumn. **We look forward to hearing more from the Home Office in the autumn about the guidance to police forces on complying with the Court of Appeal’s judgment in the *Wood* case.**

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<sup>145</sup> *P&P Report*, paragraph 68.

<sup>146</sup> Cm 7633, p4.

<sup>147</sup> Qq259-61.

<sup>148</sup> Also see Mead, Ev 87, Fitwatch, Ev 64-7, Liberty Ev 83, paragraph 9.

<sup>149</sup> Ev 45.

## 5 Conclusion

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57. A theme implicit in our consideration of policing and protest issues has been the tension between the broad discretion given to police officers in dealing with public order issues and ensuring compliance with the UK's human rights obligations. We noted in paragraph 48 an example of the Government having a clear policy in relation to the use of counter-terrorism powers which has not always been consistently followed by police forces. The use of containment raises this issue in a different way. Containment raises human rights issues of sufficient importance that they will be considered by the European Court of Human Rights, but the Government's view is that the use of containment is a tactical matter for the police to decide.<sup>150</sup> The Minister described police training on human rights as "essential" but also said "I cannot dictate to the police what training they should or should not do".<sup>151</sup>

58. This raises three issues of general concern. The first concerns establishing the 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. 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?

59. Secondly, a key finding of our inquiry into policing and protest concerned the importance of leadership on human rights matters. Police forces seem to be heading in the right direction and we particularly welcome the forthcoming appointment of Sir Hugh Orde as President of ACPO, given his record on human rights in Northern Ireland.<sup>152</sup> We look forward to continuing engagement with ACPO, the Home Office and individual police forces to ensure that human rights become fully integrated into police policy, training and guidance and operational decision making.

60. Finally, the section of this report on the importance of being able to identify police officers draws attention to the importance of police accountability. The police serve our community and must be fully accountable to it. Public trust in the police can be seriously damaged where accountability is seen to be lacking. It is for this reason, as well as to gain some perspective on the development of police thinking on public order issues, that we wrote to Sir Paul Stephenson, the Metropolitan Police Commissioner on 9 June, calling for the release of the report into the death of Blair Peach, a protester killed in Southall in 1979. The modern Metropolitan Police Service can have nothing to hide from discussion of events which took place 30 years ago. We note that the Metropolitan Police Authority has also unanimously called for the Report to be published, and that the Commissioner of the Metropolitan Police has agreed in principle to make the report public. **We recommend that the Metropolitan Police publish the Cass report into the death of Blair Peach without redaction, to help bring some closure to the family and friends of Mr Peach**

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<sup>150</sup> Qq 197, 200, 202,

<sup>151</sup> Qq185, 219.

<sup>152</sup> See *Guardian*, "New ACPO chief wants human rights to be at the core of policing", 21 Jun 09.

**and to initiate a debate about how the policing of protest has improved and can improve still further.**

# Formal Minutes

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**Tuesday 14 July 2009**

Members present:

Mr Andrew Dismore, in the Chair

Lord Bowness

John Austin MP

Lord Dubs

Dr Evan Harris MP

Lord Morris of Handsworth

Earl of Onslow

Baroness Prashar

Draft Report (*Demonstrating respect for rights? Follow-up*), proposed by the Chairman, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 60 read and agreed to.

Summary read and agreed to.

*Resolved*, That the Report be the Twenty-second Report of the Committee to each House.

*Ordered*, That the Chairman make the Report to the House of Commons and that Lord Dubs make the Report to the House of Lords.

Written evidence was ordered to be reported to the House for printing with the Report, together with written evidence reported and ordered to be published on 21 April and 9 and 23 June.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

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[Adjourned till Tuesday 21 July at 1.30pm.]

## Witnesses

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### Tuesday 12 May 2009

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<b>Mr Nick Hardwick</b> , Chair, Independent Police Complaints Commission	Ev 7
<b>Deputy Chief Constable Sue Sim</b> , ACPO Public Order Lead, and <b>Assistant Commissioner Chris Allison MBE</b> , Metropolitan Police	Ev 12

### Tuesday 2 June 2009

<b>Mr Vernon Coaker MP</b> , Minister of State for Policing, Crime and Security, and <b>Mr Christian Papaleontiou</b> , Head of Public Order Unit, Home Office	Ev 29
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# Oral evidence

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## Taken before the Joint Committee on Human Rights on Tuesday 12 May 2009

Members present:

Mr Andrew Dismore, in the Chair

Bowness, L  
Dubs, L  
Onslow, E  
Prashar, B

John Austin  
Dr Evan Harris  
Mr Virendra Sharma

*Witnesses: Tom Brake MP, Ms Frances Wright, Climate Camp Legal Team; and Mr Paul Lewis, The Guardian, gave evidence.*

**Q1 Chairman:** Good afternoon, everybody. This is a session of the Joint Select Committee on Human Rights. In view of recent events, we decided to reopen our inquiry into the issue of policing and protest in relation to which we published a report a few weeks before the G20 protest. Our first session with witnesses, and we have three this afternoon, is with Tom Brake MP, who was an observer at the G20, Frances Wright of the Climate Camp Legal Team, and Paul Lewis of *The Guardian*, who was a reporter present at the time. We have watched in private a series of video images supplied by Paul Lewis from *The Guardian*. This was clearly not a balanced or scientific account of what went on, but a series of images, and we have said to the police that if they have any video footage which they would supply we would be happy to see that as well. Perhaps I could ask Frances, first of all: why do you think the G20 protest shows that there are fundamental problems with the policing of protests in the UK?

**Ms Wright:** I think what we saw was policing that was disproportionate and certainly in relation to the Climate Camp, in our view, unlawful. What we saw at the Climate Camp was the use of force without warning at about seven o'clock, followed by "kettling" for nearly five hours with people unable to leave and then, towards the end, the repeated use of force to close that demonstration down.

**Q2 Chairman:** Perhaps I could ask Paul: the Government points out that thousands of people have protested peacefully in London recently, both at the G20 itself, which of course was not entirely marred by violence, and the Tamils protesting outside in Parliament Square as we speak. Do you think there is too much emphasis being placed on things going wrong so that we lose sight of the bigger picture, that we have lots of peaceful people protesting all the time?

**Mr Lewis:** Well, I think it is a question of how wrong things have gone really, is it not? Certainly, the number of complaints that have been received by the Independent Police Complaints Commission with regard to the G20 protests are, I think, quite unprecedented with 256 at the moment, although some of them have been disregarded, and that is

quite a stunning number really, so certainly those who were present, those who witnessed the protests, felt that, where the police went wrong, they went wrong sufficiently for there to be concern. I would also say that the Met Commissioner, Paul Stephenson, has recognised that there were serious mistakes and that they were serious enough to prompt an investigational review by Her Majesty's Inspectorate of Constabulary, so the extent to which things have gone wrong, I think, there is evidence to that fact.

**Q3 Chairman:** Tom, what do you think the police could have done differently to facilitate the protest and also to deal effectively with the violence and disorder, some of which you witnessed?

**Tom Brake:** I think what they could have done to deal with it more effectively is in relation to the kettling or the "containment process", as the police prefer it to be known. I think they could have been much more flexible in their approach in allowing people, who were clearly peaceful protesters, to leave. I also do not understand why it was necessary to impose that containment for as long as was the case. I was there, from 3.30 until nine o'clock in the evening, contained in that cordon. Within a couple of hours, the police would already have identified, in my view, who the troublemakers were, and it was very clear who they were because they were approaching the police lines, taunting the police and seeking to fight with the police, so what the purpose was of detaining the peaceful protesters for the five hours was very unclear to me.

**Q4 Chairman:** When we had evidence from ACPO, in particular, the last time round in our previous inquiry about Kingsnorth, they accepted then that mistakes had been made and that they would learn the lessons from Kingsnorth. Do you think that happened?

**Ms Wright:** Well, one of the lessons we learned was that we needed to enter into dialogue with the Police Professional Standards in advance of what happened based on our assumption that there would be complaints afterwards, that we wanted to establish that dialogue. It was something we have discussed with Kent Police Professional Standards

and we both recognised that it was important, so we did try and learn some lessons ourselves and engage with Met Professional Standards and they were not interested. They just were not interested in talking to us in advance.

**Q5 Chairman:** One of the recommendations we made last time was the “no surprises” recommendation, no surprise from the police, no surprise from the protesters, and the need for effective dialogue, so you are saying that you approached the police to talk about what was going on?

**Ms Wright:** We, as a legal team, had specific concerns, from our perspective which was about legal observing, in relation to the policing coming out of Kingsnorth. One was to do with wearing the police numbers, so a month before and then a week before we were trying to engage in dialogue over some of our specific issues, like the wearing of numbers, and also to set up the contacts between our volunteers, who would do police liaison on the day, and the command structure, and, as the Committee will be aware, we did not manage to do that until we were assisted by David Howarth and we had a meeting the day before.

**Q6 Chairman:** But you tried to make approaches to the police earlier?

**Ms Wright:** Yes.

**Q7 Chairman:** And they did not respond?

**Ms Wright:** Yes.

**Q8 Dr Harris:** Are there unreturned emails or is there an unreplyed-to letter or was this just a conversation?

**Ms Wright:** Initially, we tried with the City of London Police simply through their website, the “contact us” where you hit “email” and off it goes, but we had no response. Subsequently, we tried through the Met Professional Standards Department. I subsequently phoned them, he agreed to forward our email to the command units and he confirmed he had done that by email, this was the week before, and we never heard anything from the command units then. When there was media comment that the Met were saying that “these types of protesters do not talk to us”, we then approached them and tried again, and that is how the meeting came about.

**Q9 Baroness Prashar:** So you are suggesting that the dialogue you attempted to have with the police beforehand was not very effective?

**Ms Wright:** Yes.

**Q10 Baroness Prashar:** What happened during the protest? Was there any conversation or any dialogue during the protest?

**Ms Wright:** We had police liaison where two members of the Climate Camp were doing police liaison and they were in discussions during the Camp. The liaison was broken off, according to our records, just before the police arrived at seven o'clock. The police broke that liaison role off and,

subsequent to that, the liaison was one-way and it was the police telling us what they wanted us to hear. We were unable to go back and enter into a dialogue, which was significant because one of the key concerns people had after being contained, which was a more pressing concern than being dispersed later, was the fear that the police would do a “Gaza” and essentially would not allow people to leave without putting them under pressure to obtain their names and addresses.

**Q11 Baroness Prashar:** So when kettling was used during the protest, were you given any information about it before it began and how it would be used?

**Ms Wright:** No, so we had no warning of the police advancing, except that you could see the equipment going on and the police lines coming nearer, so that initial seven o'clock use of force which then led to the kettling subsequently, we were told, through our police liaison person, by Silver that we were being contained because something had kicked off in Moorgate and that we would be contained for a couple of hours and then we would be released in groups of 20 or something like that. Subsequently, at about ten to ten, we again had contact from Silver to say that we would be, Silver or Bronze, I think, that a section 14 Order would be put in place, that the Camp had gone on long enough, so that was coming through, but there were no announcements on the ground that I heard.

**Q12 Baroness Prashar:** Can you describe to me how kettling was used in the protest and can you tell me, as someone who was not there, how it was actually used?

**Ms Wright:** I have only ever been to three protests in my life. I have been to three Climate Camps and observed at each one, and this was my second occasion of kettling, so I was able to anticipate that we were about to be kettled as I saw the equipment going on officers and the numbers increasing and getting more solid. I was able to warn some people who had simply been going home from work that it would be a good idea to make their minds up as to where they wanted to be and I do not know that many people believed me, but I did try and do that because you could anticipate it. What I did not anticipate was the use of force, so I would like just to distinguish that from containment because it was more than simply containment. Once it went on, then obviously your freedom to move was severely curtailed I did not see anybody, who wished to leave and who asked to leave, being able to leave. There may be isolated instances where people managed to persuade officers to release them, but I did not see any and that was not my experience.

**Q13 Baroness Prashar:** What were the protesters required to do before being released from the kettle?

**Ms Wright:** I have certainly heard reports of people who were injured where our medics inside were saying that they needed hospital treatment, needed to go out, and they were being told by police medics that they could only leave if they were treated by

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them and gave their name and address and had their photograph taken, and that was a significant concern when we heard those reports.

**Q14 Chairman:** Paul, in your written statement, you refer to seven o'clock as being some sort of "trigger moment". Frances has just referred to that as well and I think Tom also refers to it as starting to hot up around then. Have you any idea why seven o'clock became an important moment in the day?

**Mr Lewis:** The way it has been described to me by people who were there, and you can see it in some of the footage and photographs I have subsequently received, was that it was almost like a switch had just been flicked and the mood changed and the policing approach changed. I should preface that by saying it did not appear that there was any change in the type of protest just before seven o'clock and there was no apparent, in terms of the witnesses we spoke to, increase in criminality or disorder or anything like that, but certainly there was a change at seven o'clock and an attempt throughout the whole area of the Bank of England, not just the Climate Camp, the whole area, to clear the streets. Now, I do not know if it was a coincidence that many of the subsequent allegations made against the police are around that time, but we know that it was shortly after seven o'clock that Ian Tomlinson was struck from behind and pushed to the floor and subsequently died, we know that dogs were biting protesters and bystanders just after seven o'clock and we know that many of the violent clashes took place just after seven o'clock.

**Tom Brake:** In relation to the Bank, I think the situation was slightly different in that, when I arrived there at 3.30, very soon afterwards the police cordon was shut, although they did not seem to have locked all the exits at the same time, so people were still able to get in, which I questioned as to why would you let people get in if you know you are trying to cordon off an area, so people were still getting in. Shortly after 3.30, they had closed down the cordon because there had been violence, and I need to be clear about that, that there were violent protesters there, and I support the police action in addressing what they were doing, but then, having contained everyone in the kettle, they were not allowing anyone to leave. I took a number of people, for instance, a man who said he needed to go back to care for his 83-year-old mother and someone who said that he was diabetic and needed to go back to get insulin, and the response we got from the police on the front line was, "You should've planned for that before you came here", so they were not allowing people to leave, and then they were charging the crowd and, I can assure you, without warning on some occasions and, I can tell you, it is a terrifying experience. If you are in the middle of a crowd which is predominantly peaceful, but at one side of the crowd where there are violent demonstrators who are being charged by the police, of course they run back into the body of the crowd who are then made much more vulnerable, I think, because of that action. There did not seem to be any particular logic to the charges, then falling back slightly, then waiting, then a further charge; it did

not seem to be achieving anything, as far as I could tell, in policing terms. It certainly was not helping identify who the troublemakers were because that process happened at the very end at nine o'clock when we were all released and we were marched off individually with a police officer, were searched and asked to provide details. Foolishly, I actually identified myself at that point as a Member of Parliament, so I did not get searched and did not have to reveal my details, but the other people who were with me, wearing legal observer jackets also, had to do that and had to challenge the police to get them to produce the documentation that they are supposed to produce when a search is carried out because they were not volunteering it.

**Q15 Chairman:** Just to pick up on one point you said, I think we know that the police were very secretive about what tactics they were going to use, which goes against the "no surprises" recommendation we made earlier on, but you are saying that the police said people should have thought what was going to happen to them even though they did not know in advance?

**Mr Lewis:** Certainly that was the response. It did not seem to matter what the concern was, what the medical condition was, what the family circumstances were or indeed, and obviously one cannot judge protesters by their appearances, but an elderly couple in their sixties, one of whom is an artist, they are unlikely to be anarchists who are seeking to fight with the police, yet they are not being let through the police cordon.

**Q16 Chairman:** So you have talked about the seven o'clock thing and Frances has also mentioned it. I think you said you were told by the police, "Okay, section 14 is now in force", or something like that at your level, but you say it was not done further down on the ground?

**Ms Wright:** No, because it is actually quite a large area, so the communication of that did not happen. There may have been announcements, and there are anecdotal accounts I have seen suggesting that announcements started at around 10.30, but all of the accounts are consistent in saying that they were not intelligible, and I was there throughout the period and I did not hear any.

**Q17 Chairman:** So the position now is that at 6.59 nobody is allowed to leave and at 7.01, if you do not leave quickly, you may be charged?

**Ms Wright:** There is an interim period which is really about the force, so you might have been able to slip out, but it was in the face of a large number of officers using force.

**Q18 Chairman:** So at 6.59 no one is allowed to leave and at 7.01 everybody has got to leave?

**Ms Wright:** I think we had confirmation at 7.23 from Silver that a cordon was now in place.

**Q19 Lord Dubs:** This question is for Paul Lewis. I read with interest your written submission and there is one quotation from it where you say,

“Commander Simon O’Brien said in the likely event of trouble: ‘We are up to it and up for it’”. My question is this: to what extent do you think the police talked up the prospects of violence and disorder in advance, or did the media over-emphasise the likelihood of violence to counterbalance that?

**Mr Lewis:** I think that is a very interesting question and it kind of cuts through to the general approach to the event more broadly. I did obtain the verbatim on-the-record transcripts that the Met gave to journalists, so the Committee can form their own view on that, but, for what it is worth, my opinion is that the Met has a really sophisticated press team, they know what they are doing and, when senior officers talk about protesters storming buildings and commandeering posts, they talk about an “unprecedented”—an interesting word which came up again, again and again, and all the senior officers were using that word—level of activity, and they talk about key figures from the 1990s involved in anarchist groups, which we all remember, returning to the fray. They very well know that the stories you will see in the press will talk about, as we saw in *The Evening Standard*, a picture of London with dark clouds looming above and the headline “Flashpoint London”, so I do not think it is fair for the Met to do as they subsequently have, which is to say that the media hyped and the media exaggerated. There is always that involved and, for what it is worth, *The Guardian* did a front-page story, relaying concerns that the Met were ramping it up in the days before the protest. Certainly, Members of the House of Commons felt that was the case and protesters felt that was the case, but I do know that the Met disagrees with that.

**Q20 Lord Dubs:** Going on to journalists, we have received evidence of journalists being assaulted, being ordered to leave an area by the police and of photography being banned; indeed, we saw some of that on the film we have just seen. Do you think that this reflects mistakes by individual officers under the pressure of events or was it a systemic disregard for the rights of the media by the police?

**Mr Lewis:** Well, if you talk to journalists who regularly cover demonstrations, they will say that this is par for the course, that it is quite normal for them to be turned down at police cordons, for them to be threatened with arrest and, crucially, for their press card, which is the bona fide identification, recognised by the Association of Chief Police Officers, again not to be recognised. Certainly, in my personal experience of reporting at a demonstration, it was essentially that I was treated as a protester would have been and denied to be allowed out of cordons, to be allowed into cordons and often to view what was going on. There are two levels of the way in which the police will treat journalists. One of them is at the level of press offices and statements that they put out, some of them which have subsequently shown to be misleading, and the other is on the ground, and it is a difficult situation for police officers to be there and you can envisage situations in which they are not sure whether

someone is a journalist or whether someone is not. In that kind of situation, I think they should revert to their press cards. The fact that we have got several journalists emerging from the G20 demonstrations with serious injuries, I think, is really quite a serious concern.

**Q21 Lord Dubs:** If this has been happening before, this is not a new departure, is this something that journalists, as a body, have raised with the police?

**Mr Lewis:** It is, yes. The previous Committee’s report mentioned the concern about the surveillance of journalists, and the Met said that that did not happen, and the Home Office again, I think, made similar noises. We subsequently obtained police surveillance footage from the Kingsnorth demonstration last year and it was quite clear that they were targeting Sky News journalists, members of an ITV crew and several photographers, and they were referring in that surveillance footage to how they did not believe that journalists should be allowed into the Camp to report it, so I think there is no doubt now that there are real concerns about the way in which the police, at a strategic as well as an operational level, treat journalists.

**Q22 Lord Dubs:** Television pictures of the protest showed dozens of journalists pressed up against police officers on the front line, if you remember those. Are journalists sometimes going too far and putting themselves in situations where they are bound to get injured in clashes between the police and protesters?

**Mr Lewis:** That is a really difficult question because, as you will know, journalists always want to be at the very front line, do they not, and they want to see what is happening. For what it is worth, I think what we saw at the G20 was actually citizen journalists doing the job that we have traditionally done, and I am very grateful that they did because much of the footage which this Committee have seen, much of the footage which has prompted investigations by the Independent Police Complaints Commission and in fact the crucial footage which contradicted the police’s version of events over the death of Ian Tomlinson all came from those citizen journalists, so I am very glad indeed that they had their cameras out and that they were at the front line as well.

**Tom Brake:** Just on that point, I cannot stress too heavily the importance of having journalists and photographers there. It is as a result of a statement sent to me by a photographer covering the event for a national newspaper who has made an allegation that there was at least one plain-clothes police officer in the crowd who was encouraging the crowd to push against the police lines and throw things at police officers. If that photographer had not been there and had not been able to provide what, I believe, is a credible statement, that story may not have been known, so we need those journalists and we need the photographers to be covering these events.

**Q23 Chairman:** You are saying that there is evidence of *agent provocateur* from the police to wind the crowd up?

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**Tom Brake:** What I am saying is that a photographer working for a national broadsheet alleges that, when he was in the crowd, he witnessed an individual who was encouraging the crowd to push against police lines, throw things against the police lines and who, when challenged by the protesters who said, “We think you’re a police officer”, subsequently left the police lines and walked through the police cordon. That is an allegation that has been made by that photographer which, I believe, is such a serious nature that it requires investigation. Interestingly, in the Home Affairs Select Committee this morning, it has been confirmed by the officer who leads, Sue Sim, who, I believe, is going to give you evidence in a moment, that there is not actually any guidance within the ACPO Manual which covers the actions of plain-clothes officers when they are in the middle of a crowd, so I think that is an area that ACPO certainly should be looking at.

**Q24 Dr Harris:** In your evidence, Tom, you have given an appendix which takes issue with the Metropolitan Police Service statement about whether people are allowed to leave. Could you go into that briefly, the MPS statement that peaceful protesters were allowed to leave in small numbers, and I think that was provided to the MPA question and answer session. What is your take on that?

**Tom Brake:** Well, from having spent five hours within the police cordon, taking a number of people who, I thought, had a very good case for being allowed to leave the police cordon, taking them along to police lines, my experience was that they were all, without exception, refused. The only person who was allowed, and one of my team escorted to the police cordon who, we believe, had a suspected broken arm, the police were going to allow him to leave the police cordon, but he wanted a friend to accompany him and that friend was not allowed to go with him, so he chose, for whatever reason, to stay, so certainly the evidence that the Metropolitan Police Service gave of people being allowed to leave the cordons in small numbers certainly was not my experience. Also, there were other aspects of that evidence, such as, for instance, toilets being made available where, yes, they were available, but not after seven o’clock when the police cordon moved in, so there was no longer access to toilets, water being made available to demonstrators where, on a number of occasions, we asked and, indeed on one occasion, asked when we could actually see water in the back of a police van and were told that there was not any water available, so certainly my own personal experience did not really tally with what those officers were saying. Now, it may be that, in some cases, at some part of the cordon perhaps a small number of people were allowed out and water was available to some protesters perhaps, but, in my experience, that never happened when we requested it.

**Q25 Dr Harris:** Did the police on the ground say, “We are letting people through, but just not you and the people you are with”, “There is water, but just not here” and, “There are toilets, but just not at the moment”?

**Tom Brake:** I think one of the more significant issues for someone who is there as a peaceful protester is actually trying to find out what is going on and trying to find anyone in authority whom they are able to talk to in order to obtain information of that nature. Our experience was that, when we went to one police cordon to ask for things like water, we were immediately directed to the next police cordon and then the next, so you ended up going round and round in circles without actually ever being able to access any information to assist.

**Q26 Dr Harris:** I am assuming, since you are not intervening, that you do not disagree. Is that your experience as well, from where you were?

**Mr Lewis:** I was going to say I would go further. We have actually reported in *The Guardian* our concerns about that official report to the Metropolitan Police Authority. There was also a reference to the Climate Camp taking place on a four-lane highway; it was a two-lane road. Also, questions about the permeability of the police cordon around the “kettle” are crucial, because if people are allowed in and out that is very different to if they are not. Certainly, it was the evidence of the witnesses I spoke to about their experience on the day—lawyers, Parliamentarians and city workers—that they were not allowed out. That is quite clear in the record.

**Q27 Dr Harris:** My last question is about your experience of police showing their numbers. Do you have anything to say on that?

**Mr Lewis:** Simply that it is my understanding that this is certainly not the first time police officers at demonstrations have not shown their numbers. I think it is of interest that the two officers who have been suspended as a result of the G20 demonstrations both came from the Territorial Support Group, who are the specialists trained in this area of policy, and both had covered their badges.

**Q28 Dr Harris:** You were on the ground so you could speak to either the officer in charge or a sergeant. I think, at the time, you mentioned you talked to a sergeant. Was this issue raised with them and they said: “No, they are entitled not to wear their badges”, or “No, they are all wearing their badges” or “I cannot hear you”? What was your response?

**Mr Lewis:** I have seen one occasion when it was raised. The person I have referred to who has been suspended who covered his badge was, in fact, a sergeant. I have seen footage (and I think, perhaps, the Committee has as well) of an inspector who had two pins on his shoulder who is being asked for his identity. He, as an inspector, should know that he should identify himself. The general experience, I think—and this is slightly more broad than just the badge numbers—is that police were very bad at communicating on any issue, whether it is getting through a cordon, access to water, or identifying themselves.

**Q29 Chairman:** One of the issues you raised was the role of the TSG. The question I put to Frances was a kind of one-off and related to Kingsnorth, but we have had these sorts of problems with the specialist units going right back to Red Lion Square and Southall, when it was called the SPG in those days, as I recall, going back to the early-70s, and it always seems to be in specialist units that, somehow, this elite approach leads to this sort of behaviour. Every time there is an inquiry; there was an inquiry by Lord Scarman into Red Lion Square making various recommendations on these things. Do lessons ever get learnt?

**Ms Wright:** I have been to three Climate Camps and they have been the same. When the legal team left the G20 protests after the Climate Camp, we did not actually anticipate doing anything afterwards because we just thought it was normal. That is the reality of it to us; that was normal policing of protests—what we experienced. If I go back, my first involvement was at Heathrow; I had never been near a protest before; I was kettled and most of the officers, TSG officers, did not have their numbers on. It must have been around a third. When one officer—I was outside the kettle—tried to pull me into the kettle and I ducked and he hit me in the face, I asked him for his number. I asked him 13 times; just repeatedly asking, very politely: “Can I have your number please?” “Can I have your number, please?” I tried to find the senior officer—really difficult to find the senior officer. It is not easy to identify who they are; nobody actually assists you in doing that. It took me about an hour-and-a-half until I found that senior officer. By then I had been pushed into the kettle, and the senior officer said: “Yes, I’ll go and speak to him”. He went to speak to the officer, he came back to me and said: “If you go and ask him now he will identify himself”. So he did not go and say: “Put your number on”.

**Mr Lewis:** If we look back at history, the only thing, I think, that would, perhaps, be of significance to the Committee to view would be the Cass report into the death of Blair Peach, which happened 30 years ago. That report, which should give us an insight into specialist units, the former TSG (SPG it was then called), is still withheld, and I wonder why.

**Q30 Chairman:** The investigation by whom?

**Mr Lewis:** By a senior officer called Cass, who investigated the death of Blair Peach and the possible involvement of police officers.

**Q31 Chairman:** The police investigation from the Southall Inquiry into the death of Blair Peach, which was 35 years ago?

**Mr Lewis:** Thirty years ago—1979.

**Q32 Chairman:** Has still not been released?

**Mr Lewis:** That is correct.

**Q33 Lord Dubs:** Have you asked for it under Freedom of Information?

**Mr Lewis:** It has been asked for under the Freedom of Information and it has not been released.

**Q34 Chairman:** I think that is something we might want to look into ourselves. I know Tom has a question, so we had better release him. Is there anything you want to add to your evidence so far?

**Tom Brake:** No. The only thing I would like to add is that, clearly, there have been a number of very serious allegations made about the way that the policing was conducted as well as some excellent performances by the vast majority of police officers. I am very proud of our police, and that is why I want that very small minority who appear to have transgressed to be appropriately investigated.

**Chairman:** Thank you for your evidence.

**Q35 Earl of Onslow:** Basically, you say that the police were threatening journalists with arrest. Has there been a lot of arresting of journalists under these circumstances, or has it been just—for want of a better word—all hot air and threat and nothing following from it?

**Mr Lewis:** I have to say, off the top of my head, I do not know of many examples in which journalists have been arrested simply for reporting demonstrations, but the threat is not uncommon, certainly.

**Q36 Earl of Onslow:** My second question is (and I do not know whether you can answer it): surely it must be in the interests of the police, if they wish to disperse a crowd, to let people out of a kettle so that the kettle gets less and less watery—for want of a better word—rather than making sure that the kettle is full and boils over.

**Mr Lewis:** I think it is a very good point.

**Q37 Earl of Onslow:** Why not then?

**Mr Lewis:** That is a question for the police.

**Earl of Onslow:** If an elderly lady with sciatica—

**Chairman:** I think that is a question we will have to put to the police witnesses.

**Q38 Earl of Onslow:** I will, but can you think of any possible reason?

**Mr Lewis:** I do not know. I think you have actually touched on what is quite a significant point. Tom Brake just said that there was bad behaviour by a small number of “bad apple” police officers, if you like, but the vast majority performed well. I actually kind of disagree with that; I think the vast majority were good, well-trained, well-intentioned officers, but their orders were incorrect and the broader tactics that they were obeying from their seniors was incorrect. It is interesting that the police officers who, thus far, have escaped the brunt of criticism since the G20 are the most senior.

**Q39 Mr Sharma:** This proves that after 30 years still there is no change in the attitude of the police and their actions as well. I am sure, as the Chairman said, there are other ways of getting that report to find out who were the people responsible for Blair Peach’s death. In your view, is there any

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justification for pre-emptive action against protesters who may be intent on causing disorder or criminal damage?

**Ms Wright:** I would say we experienced pre-emptive policing at Kingsnorth in relation to the seizure of property. I cannot see that as a justification. When I was looking back at the HMIC's thematic report on keeping the peace, which relates to the policing of protests, right in the opening section suggests that the appropriate strategic model for dealing with disorder is that which we use for beating crime, and I do not think beating protest is an appropriate way to engage with this in our society. The strategic model includes surveillance, intelligence-gathering, targeting known offenders, hot-spot management and preventative measures. That is what they are doing; that is what we experienced at Kingsnorth

and I would say that 114 probably also experienced that. I am not convinced that is an appropriate way to deal with protests.

**Q40 Chairman:** Is there anything you would like to add?

**Ms Wright:** I would like to add one point because we have focused on journalists. Paul has mentioned citizen journalism, and one of the consistent themes that runs through our report in terms of people's accounts is what happens if you have a camera near a police officer and you are recording or you are trying to get near. Actually, you get pushed away, you get the camera pushed in your face and you get threatened. So whilst the counter-terrorism law in terms of its actual legal application may not apply, the reality on the ground is that the police do focus on people who are recording.

**Chairman:** Thank you both very much.

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*Witness: Mr Nick Hardwick, Chair, IPCC, gave evidence.*

**Q41 Chairman:** We are now joined by Nick Hardwick who is Chair of the Independent Police Complaints Commission. Welcome, Nick. Is there anything you want to say at the beginning?

**Mr Hardwick:** Thank you for inviting me this afternoon. I think this is a very timely hearing. I will not repeat what is in my submission, but there are just a couple of points that I think are worth making. The first point is I was struck, reviewing the evidence we looked at as part of the investigations we are dealing with, and reading again your report, that there is a real discrepancy, it seems to me, in that your last report opens by saying: "We found no evidence of systematic human rights abuses". Even Climate Camp, in the evidence that you quote from them, are saying that policing was oppressive and there were lots of small incidents that made the protest very difficult and unpleasant, but there does not seem to be anything in your report that reflects, or anticipates, the scale and nature of the allegations that have been made about G20. So I think one of the issues is: was G20 a one-off, or was it the inevitable culmination of a trend in policing, or is it one of these things, as you say, that these events happen, spaced apart by a number of years, and the lessons from previous events get forgotten? I do not know the answer to that but I do think that it is striking, reading your report and looking at the evidence, that what is being alleged at G20 is at a different level, I think.

**Q42 Chairman:** If you go back to our report, our basic position was that the legal framework was broadly right, though we made various recommendations about counter-terrorism law and SOCPA, and so forth, but the problems were mainly due to inconsistent policing practice. You made the point about not learning the lessons of the past, and it seems to me our report came about three weeks, I think it was, before the G20 and with practically everything we recommended to do with practical

policing and, indeed, co-operation between protesters and the police the opposite happened; exactly the opposite of our recommendations happened.

**Mr Hardwick:** Obviously, your inquiry is going on and it is difficult to prejudge the detail of what happened, but it seems to me, too, that the key thing that you talk about, which is good communication between the protesters and the police, as I say, does not seem to have occurred on this occasion, and that seems to me vital; the whole business about—and it is true of many of the things that we look at—the importance of good supervision and command. It is not just the frontline officers, it is the supervisors and it is the command, and what happened there. I think another very important point you make is around dispute resolution; that before things get difficult do you have an opportunity to sit down and sort it out in some quick and not too legalistic way of trying to resolve these issues? At the risk of prejudging it, those do not seem to have been in place sufficiently, and I think those are matters of very serious concern.

**Q43 Chairman:** Just going back historically, it certainly took us by surprise when Paul Lewis said that the report into the Blair Peach death has still not been published 30 years on. Can you see any reason, from the IPCC's point of view, why it should not be?

**Mr Hardwick:** No, no. It will not be a matter for us. My knowledge of the systems that were in place 30 years ago is not as much as it should be. Certainly, the matters that were investigated, the reports of the Police Complaints Authority (the body that superseded us) could not, by law, be published, and I think one of the guarantees that I can make about our report into the G20 investigations is that once the legal processes are finished they will be published in full. The families of the people concerned will get full disclosure of all the evidence that supports those and they can be interrogated at an inquest or at a trial in front of a jury. That is one area where I think

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most people agree the system has improved from what was in place 30 years ago. I think there may be legal reasons as to why that cannot be released; whether there are good, sensible, practical reasons is a different matter.

**Q44 Chairman:** That is something we will have to look into.

**Mr Hardwick:** Good.

**Earl of Onslow:** We have had major protests in London before in which the police have been accused of over-reacting. The Countryside Alliance (I suppose I had better declare an interest as I used to go fox-hunting before I fell off and broke so many bones in my body that I cannot get on a horse again)—

**Dr Harris:** You did better than the fox!

**Q45 Earl of Onslow:** Probably suffered more! The Countryside Alliance demonstration was very heavily policed, there was a lot of blood pouring down people's heads, which I saw. Do you think that had that had more publicity, perhaps, we would have had fewer problems on the G20?

**Mr Hardwick:** I think that got a fair amount publicity at the time, and I think I said to the Home Affairs Select Committee that by a similar time after the Countryside Alliance we had had about twice as many complaints as we have had for the G20. The difference, I think, is, as Paul Lewis was saying: the key difference with G20 has been the citizen journalism and the availability of images from all sorts of different angles. That was not there before. Of course, you have to be careful about taking a photograph image out of sequence and look at the circumstances around it, but that certainly makes the issues more vivid than had previously been the case.

**Q46 Earl of Onslow:** There was a contrast between the Countryside march, which had a very, very large number of people on it, which was beautifully policed—there was no trouble, it was good-natured and it was a model example of how things should be done—with the Countryside Alliance. I saw it myself, I was here with my wife and she was deeply, deeply shocked at what she had seen; she did not believe that the English police could behave like this. That was an impression which was given then. It seemed to me to spill over into some of the things one has read and seen about the way that the G20 was policed.

**Mr Hardwick:** As you know, Her Majesty's Inspectorate of Constabulary is doing a review of G20 and looking at the tactics and strategy that were used, and I think comparisons with the Countryside Alliance demonstration would be an important part of that. There is no doubt that the images that had been seen in G20 are very shocking to people; they are, objectively, very shocking, and people are not wrong to be shocked. To be clear: our job, certainly in the case of Mr Tomlinson, is a criminal investigation into an allegation of manslaughter against the officer concerned. The stakes could not

be higher. We will ensure we will look at all the facts. It is not us that are judge and jury in it, but that is the degree of the seriousness of what happened.

**Q47 Baroness Prashar:** What is your view on "kettling"?

**Mr Hardwick:** "Kettling" or "containment" is one of the issues that Dennis O'Connor will look at as part of his review. I think one of the frustrations that some of those people have with the IPCC's role is that our role is to look at allegations of misconduct by individual police officers, and Parliament explicitly excluded from our remit issues of direction and control and operational policing, of which "kettling" is part. One of the things that I said when I spoke to *The Observer* a couple of weeks ago is that I think there is a real gap where people have legitimate concerns about matters that are outside our remit; I think the system sometimes falls down then. Where do they go with those concerns? How do they get those addressed? I think there has been a gap, and that is why I welcome what HMIC is doing, which is a first on this occasion, looking at those concerns. I think that is a useful way of dealing with the issue.

**Q48 Dr Harris:** One thing you can cover, as I understand it, is the display of badges.

**Mr Hardwick:** Absolutely.

**Q49 Dr Harris:** You say in your written evidence, just to save time, that you regard it as a disciplinary matter in any investigation it undertakes. You then go on to say you will consider the conduct of any supervising officer who was aware of this occurring but took no action to prevent it. Could you not argue that it is even more grave for a supervising officer, who has got the training, who has got the responsibility and who knows something is going on for 20 cops, yet does nothing? Yet you say you are only going to consider it.

**Mr Hardwick:** What I mean by that is I am not going to prejudge an individual case prior to doing the investigation. I would not like to play with words. I think one of the things that the IPCC has a good track record of doing, in all our investigations, is not leaving the buck to stop with the officer on the front line, but pursuing that up the chain of command to see exactly what happened. I referred to Paul Lewis's evidence earlier, where you may have individual officers acting within the orders, training and instruction they get but the problem may lie precisely with those orders and instruction, and we would look at that if necessary. Just to add, I do think we have to be completely clear: it is completely unacceptable for officers not to be displaying their identification, and if their supervisors were aware of that and took no action, under the code of professional standards that would be an offence by those officers. There is no two ways about it.

**Q50 Chairman:** You raised this issue in relation to the Countryside Alliance that Lord Onslow referred to, when it happened there, in your own report into that 2004 demonstration.



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*Mr Hardwick:* Yes.

**Q51 Chairman:** It has happened again.

*Mr Hardwick:* The IPCC does not manage the police. We have no powers to direct an operation or to manage the individual case, but we will take into account when we look at this issue on G20 the fact that we have previously made a recommendation and it was accepted by the MPS, so there is absolutely no excuse for them not dealing with it now. If we started to actually manage the implementation of our recommendations then we would be responsible for the policing, and then we are part of the police.

**Q52 Chairman:** This picks up the previous point that was being made. If you make a recommendation in relation to not covering up numbers, first of all there is the officer who covered up the numbers; next there is, as Dr Harris has said, the immediate supervisory officers—the inspector and the sergeant—but if you are making a recommendation at a more strategic level and it is still not implemented, does that go much further up the food chain to senior officers?

*Mr Hardwick:* These are individual issues of misconduct, and we will pursue them.

**Q53 Chairman:** I am going beyond the issue of individual misconduct; I am going to the issue of the Met policy. If the Met say: “Okay, we accept your recommendation”, which I am sure they would do, but in practice it does not happen, does that go beyond the officer, beyond the inspector to much higher up the chain of command?

*Mr Hardwick:* It would go as far as it needs to. We would pursue it at all levels. My understanding is (and I say this with some hesitation because I am not completely sure of my facts and when you have your other witnesses before you they may be able to confirm this) that on this occasion an operational order was given that officers should be correctly identified. My understanding is that an order was given on this occasion, an operational order, that officers should be identified.

**Q54 Chairman:** Fine, but if the order is not carried out, whose responsibility is that? Surely, it is the man at the top, in the end, where the buck stops.

*Mr Hardwick:* You would have to look at where the buck stops in any particular instance. You have to follow that chain, as we would. So you would start by looking at the individual officers who, it seems to me, should be quite clear about their responsibilities, and then you would look at the people, at whatever level was necessary, who were aware that that requirement was not being met and did nothing about it. That would be a matter for them. These are matters that we are investigating and we have to make those decisions on the basis of the evidence we get as the investigation progresses.

**Q55 Baroness Prashar:** I want to clarify one point, because you said that somebody is looking into the whole question of containment. Is that at a policy level?

*Mr Hardwick:* That is being looked at by Her Majesty’s Inspectorate of Constabulary, which is the body that inspects the police, and they will look at the tactical and strategic questions in how the operation, as a whole, was policed, which is outside our remit. So HMIC will look at the tactics and strategy of policing at the demonstration; we will look at the conduct of individual officers.

**Q56 Earl of Onslow:** Can I ask a supplementary, to go back to what the Chairman was asking about this numbers question? You make a report, and then what happens when nothing happens? That is what I cannot quite get my head round. If nothing happens, what powers have you got to make it happen?

*Mr Hardwick:* To be clear: in the end, we are not, and do not want to be, responsible for operational policing. So we will make a recommendation. As a first step, the people to whom we make the recommendation can decide whether to accept or not accept our recommendation.

**Q57 Earl of Onslow:** So it is only advice?

*Mr Hardwick:* It is a recommendation. Once we can tell the police how to conduct their operations then we become responsible for those operations, and once we become responsible for those operations it is then you cannot, at a distance, judge them independently.

**Q58 Earl of Onslow:** This is not an operational judgment; this is a judgment of carrying out what are standard orders, that you have your identification numbers visible for everybody. That is not an operational matter; that is a discipline of what should happen, and then when it does not happen you have no powers to make—

*Mr Hardwick:* If an individual officer is not wearing their numerals, whether or not we have made a recommendation, other than in some very exceptional circumstances, we would regard that as a disciplinary matter. If their supervisors were aware that was going on and they did not deal with it appropriately, at whatever level up the chain that goes, where there was awareness but a failure to act, then that, too, could be a disciplinary matter. So we would deal with that.

**Q59 John Austin:** Can I come on to the issue of pre-emptive arrests and whether you feel there is any justification for pre-emptive action against protesters who it is suspected may be intent on causing some trouble?

*Mr Hardwick:* The Committee got it right in its last report. I think, first of all, we are talking here about peaceful protest. What goes with peaceful protest is a degree of disruption and inconvenience, and I do not think it is right to take pre-emptive action to stop that, other than broadly speaking. If the police have intelligence that criminal activity is going to take place, then they have to take a proportionate judgment about how to deal with that, on the basis of the evidence that they have got, as they would if they had intelligence that any other crime was going to be committed. I think the presumption should be

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that peaceful protests should go ahead and that some disruption and inconvenience to others as a consequence is one of the prices that is properly paid for that democratic right to express an opinion.

**Q60 John Austin:** So there is serious conflict between pre-emptive action of that kind and the right of people protesting.

**Mr Hardwick:** Yes, exactly. I am not saying that there should never be pre-emptive action; it would depend on the intelligence on what you were doing.

**Q61 John Austin:** I do not know what the intelligence was in the Nottingham case but over 100 people were arrested, property was seized, homes were invaded and, as far as I am aware, not a single person has been charged with any offence.

**Mr Hardwick:** We have not had any complaints about the Nottingham incident, so I do not know the facts of that matter.

**Q62 Lord Dubs:** In our previous report this Committee recommended that counter-terrorism powers should not be used against peaceful protesters. A number of witnesses have claimed that the police are abusing counter-terrorism powers to supplement stop and search powers and to stop journalists taking photographs. Would you like to comment on that?

**Mr Hardwick:** I agree with what the Committee is saying. We require the police to refer to us any complaint that relates to their use of terrorism powers (and I personally review those), and the misuse of section 44 is a common theme in that. The problem with section 44 is the officer does not have to give an explanation about why he is stopping an individual, so I think it allows for lazy policing, frankly. I think that is one of the problems with it. So it would not surprise me if that was used inappropriately in protest situations, because we have certainly got evidence it has been used inappropriately in other situations, and that is a matter of concern for us. I think, as the Committee pointed out, the Terrorism Act does not permit the kind of carte blanche for photographic equipment to be seized, but certainly I am aware of complaints in other situations where people allege that is what happened. I think your point about issuing further guidance to make it completely clear that that is not what was intended in the legislation was a point well made, and I hope that will get reinforced. I would agree with what Paul Lewis said; I think, certainly for us, the citizen journalism that came out of the G20 and in other incidents has been very important.

**Q63 Chairman:** I ought to give you the opportunity to respond to the criticism that was made at the time, about the way you responded to complaints as they emerged. Ken MacDonald, for example, made criticisms that suggested that you, the IPCC, were too close to the police. How would you respond to that criticism?

**Mr Hardwick:** I do not think that is correct. Maybe if you looked at this particular instance, it would help if I actually set out the sequence of events. Mr

Tomlinson collapsed at, I think, about 7.30 in the evening on Wednesday 1 April. Police attended him at the time of his collapse, and it is important to say he was not part of the demonstration. The matter was referred to us a couple of hours later that evening because of that police attendance. There was no evidence available to us, at that time, that Mr Tomlinson had any prior contact at all with the police. The explicit decision we took and recorded, at the time, was that we would not rule out there having been prior contact that allowed for that collapse but, if there had been prior contact, we did not know where or when it had been. So on the Thursday we began an intrusive, hands-on assessment of the City of London investigation that was already underway into a sudden death, with our investigators down at the City of London Police Station standing over the City of London officers, looking at what they were seeing in terms of the CCTV that was coming in, and reviewing the investigation plan. That intrusive assessment went on for the Thursday and most of the Friday. On the Friday, the first independent witness accounts we got were that there had been no police contact. Also, I think it was on the Friday we got the results of the first post mortem, which were that Mr Tomlinson had died from natural causes. We continued the assessment and, as evidence came in that there had been a prior contact with Mr Tomlinson—so some minutes before he had arrived on Cornhill he had been struck and pushed round the corner on *The Guardian* Royal Exchange—as that evidence came to light, and particularly once we received the footage from *The Guardian*, we began an independent investigation. However, we could not have known on Wednesday 1 April that Mr Tomlinson had had prior contact with the police before his collapse, but we explicitly did not rule that out, and carried out an intrusive assessment to find out if that was the case and, if it was, when and where it had occurred.

**Q64 Chairman:** Thank you very much. Unless there is anything you want to add?

**Mr Hardwick:** No.

**Q65 Lord Dubs:** Could I ask one point? I am only repeating something but I am bothered about something that has come out. When you make a recommendation, yes, you condemn the police for not accepting the recommendation but do you not have the powers to follow that up? In other words: you make a recommendation, very clearly, to the police, the police appear to ignore it in practice—

**Mr Hardwick:** I think what it is important to say is that in general cases we do not do this on our own. In our view, the people who are responsible for ensuring, at a local level, that recommendations are followed up and implemented are the police authority, and at a national level that might be with HMIC or MPIA. We do 100 independent investigations a year, we manage a further 125 and all of those will produce recommendations for all 43 forces up and down the country. It would not be honest for us to pretend that we have the capacity to

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inspect and follow up how all of those are implemented, so what is important is that we establish whether the recommendations have been accepted and then we work closely with the police authority and with HMIC to ensure that they are implemented.

**Q66 Lord Dubs:** Should you not express your concerns to the Inspectorate?

**Mr Hardwick:** If there was a national recommendation, for instance, that is what we would do. My view is I think we have to be careful about our remit here, so I am careful not to get involved in operational policing. Secondly, what we can do and what I think is proper is we will give information, the results of our investigations and the recommendations we gave, to the local organisations that are on the spot that are responsible for accountability at that level—the policy authority. I do not think it would necessarily be the right thing for us to come in on a national basis and try and manage things at that local level.

**Q67 Earl of Onslow:** One final point, which is to support what Lord Dubs was asking. I am still worried by this. As I understand it, you make recommendation A to police force B. You make it a second time and a third time, and police force B do nothing to implement that recommendation, and it is not—I repeat—an operational matter. So, ultimately, there is no way of making that police force do what you want it to do. Is that right?

**Mr Hardwick:** No, no, that would not be quite right. Just to clarify this: we might make two sorts of recommendation. We might make a recommendation about the discipline of individuals to a police force, in that they should face a discipline tribunal. Those will be conduct recommendations. If the force does not accept that recommendation, we can direct them to convene a disciplinary tribunal for the officers involved. So on a conduct matter we can direct the force to convene a discipline tribunal, although obviously we do not make the decision at the tribunal. On an operational matter we can make a recommendation; the forces are required to tell us whether they accept that recommendation or not; we can pursue, and do pursue, if you like, thematic recommendations at a national level but we would work with the other accountability bodies, HMIC and the police authority, to try and ensure our recommendations are implemented at a local level.

**Q68 Dr Harris:** Can I ask one question, which is about your remit? I understand the difficulty you have in that you get a lot of complaints which you just cannot cover. However, not letting someone through a line, okay, which is captured and is the conduct of an individual officer—say, someone with

a broken arm—is that something you can investigate if the command is not: “Don’t let anyone through”? If the order is: “Don’t let anyone through” then he is following orders, but if it is: “Use your discretion”, and someone comes along with his arm hanging off and does not get let through, is that something you can look at?

**Mr Hardwick:** I accept the point you make. Half of all complaints, so 15,000 a year, are about incivility or what they call “other neglect”—minor neglect of duty. Most people’s actual experience of the complaints system is not about major issues, it is about relatively minor but unsatisfactory encounters. Normally, those will be dealt with at a local level and the complainant has a right of appeal to us. One of the things that we have talked about to the Home Office, and indeed we have talked to some of your colleagues, Dr Harris, is that I think one of the problems with the current definition of a complaint is it is defined around the conduct of the officer rather than the experience of the complainant. So what we have to do in the legislative framework we have, the question we get asked is: can we substantiate an allegation of misconduct against this individual officer? A better question would be, for most of those minor complaints: why is this member of the public unhappy? Is that justified and what can be done to put it right?

**Q69 Dr Harris:** My specific question is: if an officer refuses to tell a legal observer who the person in charge is, is that misconduct? Or, if he is told: “That is the policy; we are not going to co-operate”, that is operational. So, in the case (and this is not before you at the moment, so I think you can answer) of G20, if people said: “Here’s a video of this officer refusing to let someone through who had good grounds”, and it is your belief that there was not a blanket ban; it was just that officer doing something wrong, is that because it is his judgment it is, therefore, not your role, or could that be conduct, or refusing to say who his superior is?

**Mr Hardwick:** You ask a number of different things. I think, broadly, if somebody was acting in accordance with the training and the orders they had received, they would probably not be committing misconduct. There might then be a question about the orders that that officer received, and whether those were proper orders to have.

**Q70 Dr Harris:** Would that be a matter for you?

**Mr Hardwick:** That could be. That could be. One would have to look at each individual circumstance, I think.

**Q71 Chairman:** Thank you very much. We had better let you out quickly before somebody thinks of something else!

**Mr Hardwick:** I am at your disposal!

*Witnesses:* **Deputy Chief Constable Sue Sim**, ACPO Public Order Lead, and **Assistant Commissioner Chris Allison MBE**, Metropolitan Police, gave evidence.

**Q72 Chairman:** We are now joined by DCC Sue Sim, who is ACPO lead on public order, and the Assistant Commissioner Chris Allison from the Metropolitan Police. Congratulations on your promotion and, hopefully, a very safe Olympics in your charge.

*Assistant Commissioner Allison:* Thank you very much indeed, Chairman.

**Q73 Chairman:** Welcome back to you both; I did not think we would be seeing you quite so soon after our last session. Perhaps I could start by asking you, Chris, do you see the policing operation of G20 as a success?

*Assistant Commissioner Allison:* If we look at the overall operation, Chairman, this was the most challenging operation the Metropolitan Police has had to do, probably, in its history. It was a week's worth of operations—a security operation together with public order events taking place across London; we planned in three months something that takes, on average, for many other forces and ourselves as well, for smaller events, many years to plan. By way of example, for the G8 in 2013, the first planning meeting started the week before the G20. So, taking the whole event as a whole, our view is that the event at ExCel and all the security events around it passed off successfully. We managed major protests without major disorder and damage to property, which was a real fear following what happened on the afternoon of the 1st. We accept totally there are some individual acts that need to be looked at. Let me reassure the Committee right now, the Metropolitan Police does not condone the use of excessive force. We accept there are individual acts that are being investigated by the IPCC and we will do everything we can to assist them. It is important that I say here that, obviously, our thoughts are with the family of Ian Tomlinson. They want answers and we will do everything we possibly can to assist the IPCC to get those answers. Obviously, I cannot talk any more about those cases.

**Q74 Chairman:** Certainly, we would not want you to talk about the individual cases.

*Assistant Commissioner Allison:* However, as a whole, in terms of the operation—and I think it is something my Commissioner said—the overwhelming majority (and it has been mentioned by a number of your witnesses here today, which is very pleasing) of officers worked extremely professionally under very, very difficult times; they worked long and extended periods of time and behaved totally professionally in what were very difficult circumstances. Clearly, there are individual acts that have been brought to our attention that are a cause of concern, and those matters will be investigated and we will support those investigations.

**Q75 Chairman:** You said there was little damage to property, but there seems to be quite considerable damage to the reputation of the Metropolitan Police out of this incident.

*Assistant Commissioner Allison:* This is why it is important for committees like this to be sitting and for the HMIC to be undertaking the review that they are undertaking. I said at the Metropolitan Police Authority, when I answered questions to them on 30 April, it is important to put the whole of the event in context and to understand exactly why we did do what we did. There have only been elements of it talked about in the media, which is where many people get and form their views, and because, obviously, as soon as an investigation is started and the IPCC are then looking into those particular bits, we cannot, as the Metropolitan Police, comment. So, as a result, this gives me an opportunity to, maybe, explain to the Committee, if they want, why we use the tactic of containment as opposed to why we use the tactic of dispersal, and the benefits over it. We accept there are challenges to it, and this was tested at length through three courts and, most recently, I think, was tested here at the same time. It gives me an opportunity to explain why we used the tactics that we did.

**Q76 Chairman:** We will be coming back to that in some detail later on, as you probably would expect. I would like to look at some of the wider issues first. Perhaps we could ask you this, Sue. In our report, we came to the conclusion that the legal framework was broadly right with some specific recommendations around counter-terrorism and SOCPA, and so forth, but the problems were mainly due to inconsistent policing practice. Do you agree with our analysis about all that?

*Deputy Chief Constable Sim:* I supported the report. I was grateful that you identified that there was not a systematic abuse of human rights in policing protest, and I thought you identified very cleverly the fact that, yes, communication is the key to all of this. As Dr Harris actually asked the last time, the difficulty still remains that we cannot get everybody round the table to discuss everything in relation to protests. I really do wish we could, because I think the point that you made very, very clearly in the report, which is there should be no surprises—either from the policing side or from the protesters' side—quite rightly, is that there is an absolute requirement for people to be able to protest (something that I am wholeheartedly supporting), but the fact of the matter still is there is this tension between how we get people round the table to discuss protests. I actually think that is the Holy Grail and the answer to a lot of the things that we are seeing. Broadly, I have supported the report, we have undertaken the work that you asked us to do in relation to the National Union of Journalists, and that document is out for consultation with my ACPO colleagues; we are looking at, again at your request, the issues in relation to section 5, and I have a report coming back shortly in relation to that.

**Q77 Chairman:** Thank you for that answer. Perhaps I could move from that answer to Chris. One of the points that was made by the Climate Camp (I think you were here for the earlier evidence)—

*Assistant Commissioner Allison:* I was.

**Q78 Chairman:** — is that they tried to contact the police and approach the police, and it was only when an MP intervened at the very last minute that they were able to get some sort of a meeting with you to discuss what was going on. Of course, you are going to have the anarchist violent fringe who are not going to co-operate or play ball at all, and we fully sympathise with the problems you experience with those, but the vast bulk of people (as you say, the police are doing a good job and the protesters too) are not potential trouble-makers and we saw, on the video, their hands up saying: “We’re not a riot”. Why were they finding such difficulty communicating with you and trying to work out the rules of the game?

*Assistant Commissioner Allison:* Can I just support what Sue says, and if we look at the practicalities in London, or look at what we deal with in London, on average there are about 4,500 events of various sorts that take place. This is the most protested bit of real estate anywhere in the capital.

**Q79 Chairman:** You told us about that last time.

*Assistant Commissioner Allison:* As I said, the vast majority of public order events pass off perfectly satisfactorily and peacefully, to the satisfaction of everybody. That is because we have that liaison and that discussion, where, in effect, there is an agreement beforehand, from both sides, about what is going to take place, so there are no surprises on the day, as you say in your report. Therefore, there is no conflict. The times when you end up with conflict is when there are surprises. We accept that in relation to the Climate Camp there were some messages that came into our organisation that took some time to get through to the command team, and that is something that we will look at, but as soon as they got through to the command team I know that the command team came to this House and they actually met with representatives of the Climate Camp. Our view of that meeting was we were given a list of demands about what we had to do in relation to legal observers, and when the command team tried to discuss with Climate Camp exactly what the nature of their protest was, where they intended to camp and where they intended to do their protests, so that we could try and work with them to facilitate it, they refused to discuss that. The line that I have been told from the command team was that they said: “Well, you can see what we’re going to do; it’s on the website and we’re not going to say any more than that”. Clearly, the website did not articulate what was going on. As I said to Jenny Jones, who was on the police authority who was asking me about this, in any of these things, if we can have a dialogue with the protest group beforehand and agree, in effect, what the protest will look like so that we can facilitate the lawful protest, minimise the disruption to others but accept that there will be some form of direct obstruction, then that helps us. We also then agree we have stewards around, so there will be a head steward sitting alongside a senior police officer, so as soon as there is going to be any form of

interventional work then that liaison takes place. That is the function of 99.9% of all the protests we have in London.

**Q80 Chairman:** I do not think we disagree with any of that, and that is the broad thrust of our recommendations last time round—no surprises from either side; either the protesters or the police.

*Assistant Commissioner Allison:* We would support that.

**Q81 Chairman:** One of the concerns that has emerged, also, is the suggestion that the police were ramping up the risks around the demonstration as well, when Commander Broadhurst talked about protesters planning in an “unprecedented” way to “stop the City”. The police operation was called “Glencoe”, which was a rather, perhaps, unfortunate term for the demonstration, and there was further talk about the “Four Horsemen of the Apocalypse” being the names of the marches. I saw comments that the police were saying they were “up for it”, and all this sort of thing. Do you think that this way of hyping up what might turn out to be a flashpoint is particularly helpful? Do you think that was the police doing that, or the press doing that, and do you think that that might have, also, created that climate where the protesters were more suspicious of the police and they were less willing to co-operate?

*Assistant Commissioner Allison:* Lots of questions there, sir, so if I do not cover them all I apologise. Certainly, the Metropolitan Police, in terms of all of our briefings to the media, was one of trying to paint a picture of reality. We were not talking it up at all; at no time did Bob Broadhurst talk about the word “violence”. What we talked about was we were seeing unprecedented levels of planning and activity amongst protest groups, but what we did say is we thought lots of this was going to be aspirational. We also said we thought the individual was going to come out and stop the City; we did not start talking about disorder and violence whatsoever. We were concerned about the media reports, and the comment from Simon O’Brien, the Commander who was our press spokesman, about being “up for it”, actually, if you read the whole account of what he says, has been taken completely out of context. He actually talks about: “We’re up for the operation in all of its complexities. We are up to the operation in that we will deal with marches and we will deal with the security of significant amounts of foreign leaders and their entourages. We will facilitate lawful protest within London.” So that comment has been taken out of context, and that is what he says. The transcripts have been made available widely. I was present with Bob Broadhurst when he actually briefed the media, and he did use regularly the phrase “This is aspirational; we just don’t know, but this is what’s going on.” We raised our concerns prior to the event with the Chair of the Police Authority, who is also the Mayor of London, and he himself did some press interviews on the Tuesday afternoon highlighting his concerns about the way in which this was being hyped up by the media. I do not

think that does any of us any good. We did not want it. In my briefing notes to the Commissioner, we did not want this hyped up, because there was the concern that that would encourage people to come out and commit acts of disorder. That is the last thing we wanted.

**Q82 Chairman:** So you disagree with the evidence that we heard from Paul Lewis earlier on that they were reporting what the police were saying?

**Assistant Commissioner Allison:** Yes. As I understand it, Mr Lewis has actually got copies of the transcripts of our briefings, and our briefings were designed to say exactly what our intelligence was, and at no time did we try to hype this, or even hype it. Sadly, the media took it in a particular way and started reporting it in a particular way.

**Q83 Chairman:** Did you try to de-hype it by trying to calm things down?

**Assistant Commissioner Allison:** Yes, through all of our briefings. Again, the briefing that we gave to the Chair of the Police Authority—and he then held media interviews on the Tuesday before G20 with ITV, BBC and Sky, because I watched him, he talked about the media not helping because he considered they were hyping it up. The issue about the “Four Horsemen of the Apocalypse”—all we were doing was reporting what was going on. That is what we believed to be going on on that particular day. That is the four marches that were coming. Again, let us put the point: those were four marches—no organiser had come forward to us whatsoever, nobody had spoken to us about that, that was in breach of the Public Order Act—and those four groups made their way through the streets, which is normally a march or a procession, without any discussion with the Police Service at all, to the Bank of England.

**Q84 Dr Harris:** In Paul Lewis’s written evidence he says: “On 20 March Commander Broadhurst, who led the operation, told reporters of the possibility that protesters might storm buildings, damage property and bring large areas of London to a standstill, ‘causing chaos around the city’. He pointed to the return of individuals involved in anarchist groups” . . . like “Reclaim The Streets and the Wombles. ‘We are seeing unprecedented planning . . . They are plotting and planning what they are going to do and the picture is changing almost every minute. They have some very clever people and their intention on April 1 is to stop the City.’” It goes on: “‘So it will be an exciting couple of days to say the least’”. That does not quite fit in with the picture. That is selective, but so were you, I would say.

**Assistant Commissioner Allison:** Dr Harris, I would not say I was being selective; I was trying to give the whole picture here. The bit in quotes that you have given from Paul Lewis’s report there was that the intention (and this is what Commander Broadhurst said) all the time was they intended to stop the City. They intended to stop the City by causing disruption—this is what our intelligence was—and

they intended to stop the City by going into buildings. We did not say: “Go in and damage buildings”, we did not go in and say: “Set fire to buildings”; we said they intended to stop the City. That is what the intelligence was.

**Q85 Chairman:** So the words “storm the buildings” were not used?

**Assistant Commissioner Allison:** I do not recall having heard the words “storming the buildings”, no.

**Q86 Chairman:** “Storm”.

**Assistant Commissioner Allison:** No, I do not even recall the words, but I have not got all of the transcripts here. Certainly, our words were “they intended to stop the City” and that would have included going into buildings if they could. Whether the exact word “storm” was used or not, I cannot tell you, but what I can say is we were not using the words “they were out there to damage property”.

**Q87 Chairman:** That is quite an important distinction, is it not? There is a difference between going into a bank politely and having your sandwiches in the reception area and then storming, which implies charging in and knocking down doors and breaking things up.

**Assistant Commissioner Allison:** Forgive me, sir, I have not got all of the transcripts with me; they are sitting back in my bag. Certainly, I was present with Bob when he briefed, and the briefing was a reality briefing about what we anticipated the protesters to do, and the last thing we wanted to do was hype this up in any way, because we recognised that if we, in any way, hyped this up all we are likely to do is encourage more people to come out and commit disorderly acts.

**Q88 Chairman:** Perhaps you can check the transcripts and let us know, because if the word “storm” was used it certainly creates the impression of Medieval siege engines and breaking into places and smashing them up, which is a rather different impression than just going into buildings.

**Assistant Commissioner Allison:** I might disagree with you slightly, sir, if I may. “Storming” and “a lot of people going in”—what we are not saying is they are going to go and then trash the building and set fire to it, and cause the damage. It is an interpretation, but I will go back and check.

**Q89 Chairman:** Let us move on. You have freely admitted there were problems in the overall context of the operation. Do you think they were down to individual officers, the Bronze level commanders, the sergeants and inspectors, or are there systemic problems in trying to police such a big operation with problems from the top?

**Assistant Commissioner Allison:** No, sir, I do not see there are systemic problems. What I said, I hope, in my opening remarks, and I will repeat them, is there were individual acts and individual incidents which are a cause for concern, and those individual acts are being investigated and it is quite right they should be

investigated. Every officer accepts that they are accountable in law, and every officer accepts that if they use force they have to be able to justify that use of force. In terms of what we did on the day, we were presented with a set of circumstances and the police command responded to that set of circumstances using appropriate tactics at the time. Obviously, the HMI is reviewing that, and the Commissioner, Sir Paul Stephenson, has asked the HMI to do a review of the tactics that were used at the G20 and the general public order tactics. We welcome that review. I have been involved in public order policing throughout my service; we debrief every single event that we do; we take the lessons that are learned from previous events and put them into the next event. The learning that came out of the May Day protests, the Austin and Saxby case, was that we needed to do something about those who were caught inside the cordon, we needed to consider the issue of provision of toilets and water, and we needed to consider how we would get people out if we could. Those learnings were actually taken and applied during this event. We did not start off the day intending to put in place a containment. I know from the briefing notes it was one of the tactical options that might have been put in place, but it was not: "This is what we're going to do". However, as part of all effective public order planning you consider all of your contingencies and then you make sure you have got in place all the things that are necessary to put in place those contingencies.

**Q90 Chairman:** Can we see those notes formed before the demonstration?

**Assistant Commissioner Allison:** The notes of the Gold and Silver, yes, they are on record—the Gold and Silver command notes. The Bronze, which actually put in place the containment itself, those notes will be available. Certainly I know the Gold and Silver briefings were actually recorded, and I am sure we are going to get on to the issue of identification later, sir. That was covered within those briefings.

**Q91 Chairman:** We are certainly going to get on to that later. One of the issues that has also arisen is who was in charge, not obviously in Lambeth where it was being run from but on the ground? The previous evidence we had was that there were people asking officers on the front line specific questions and not getting any answers, and they were asking: "Who is in charge? Who can we ask?" and there was not anybody in charge to even answer those questions. Presumably, the officers on the front line know who their sergeants and inspectors are and who is in charge of a particular cordon. Why were the people getting that reaction?

**Assistant Commissioner Allison:** I cannot answer on the specifics; all I can say is that, yes, there is a well established command structure in relation to that and we talked about the Gold, Silver and Bronze. There was a Bronze commander responsible in fact for both areas with a number of sub-Bronze commanders and these were at chief inspector/superintendent rank. Then you have the serials

which have inspectors and sergeants. So officers on the front line, there are supervisors who are behind them to whom they can refer queries and those supervisors, if they are not aware of the answers, can refer them up the command chain. Sometimes in these circumstances it is challenging and we accept that communication in all of these, in the fast time nature of some of these events, is an issue and we accept that. It is one of the learnings: how do we better communicate with individuals who are involved in protests?

**Q92 Chairman:** We heard Tom Brake's evidence that he went from one cordon to another, being referred on and on, I think to three cordons, and then he gave up with the particular query he was raising and trying to find an office to answer that. Should that have happened?

**Assistant Commissioner Allison:** No, but I would have hoped, sir—and it depends on the specific query because I think one of them he was asking about water, moving some water. I do know of one particular cordon that did have the water. We were not giving people the water bottles for the fear that they would then possibly become missiles and thrown back at police officers, but people at that cordon line were given water. I do not which bit of the estate that he went to. One would have hoped that somebody would have been able to intervene and provide at least some of the information or at least say, "I am sorry, I do not have that information; we will try and get it for you." In relation to the other bit about the water, the toilets that you mentioned were put in place there was running in the toilets that was drinkable as well. So that was there and was available for people. The challenge in all of these—and that would be part of the debrief plan—for us is how do we make sure that we get the communication to as many people as we possibly can?

**Q93 Chairman:** The point about the debriefing is very important and is one of the issues that we raised in our report. Also the importance, if you can, of involving the organisers of the protest in the debrief to get their perspective of what went on. Have you tried to do that?

**Assistant Commissioner Allison:** Certainly I know that one of the things that is coming out of the HMI Review is that they are going to take the view of the protestors in relation to this. I think this is a good model for us to take a look at. We speak to most of our event organisers after their events and, as I say, 99% of the events that pass off pass off perfectly well and perfectly peacefully.

**Q94 Chairman:** Have you asked Climate Camp to come and have a chat with you about their views about what went wrong?

**Assistant Commissioner Allison:** We have seen the Climate Camp report and I gave a commitment, together with Tim Godwin, at the full authority meeting on 30 April that we will go and speak to Climate Camp, not only about this but in advance of any future protests they have because we would want that dialogue with them beforehand, so that we can

try and ensure that we reach agreement so that the events can pass off peacefully and to the satisfaction of everybody. Sir, if I may, I have just been passed a note; one of my team has just the transcript and at no time did Commander Broadhurst use the word “storm”.

**Q95 Lord Dubs:** When we were doing the previous study, when we went to Lambeth Command Centre we spent quite some time talking to people there about keeping human rights at the right level in all these instances and that was fine because it was a calm day, and so on. In doing the G20 protest did police commanders have access to human rights advice as to how they were conducting things?

**Assistant Commissioner Allison:** Yes, they did sir. They had access to human rights’ advice prior to, so that in all of the planning in relation to any of these large events—and this was a significantly complex one for us so there were a large number of what I would say were both strategic and tactical planning meetings before hand—at the tactical planning meetings there were legal advisers from our solicitors’ department present there to advise on the various legalities of the tactical options we would be considering. So the sorts of things that needed to consider, obviously learning the lesson from the *Austin* case—Austin and Saxby as it came through. On the day itself again they had access to—they were not in there—lawyers on that particular day. I think, if I have read one of the notes, they did actually make contact with them on that particular day; but they did have access to them.

**Q96 Lord Dubs:** Did any of the commanders seek any advice on human rights during the protests themselves? I imagine they were under a lot of pressure and it might have been difficult for them to do, but do you know whether there was any request for guidance?

**Assistant Commissioner Allison:** I am looking here. People were present at the workshop on 27, which was providing specific advice. I am not aware that they asked for any advice on that particular day, but I would say, sir, that the basis for that would be the framework of our planning was that we would have considered all the various tactical options and made sure that we considered both the law and the human rights application as part of our tactical options, so that when we were applying them we were not applying them completely blankly—it was not something we were doing that had come out of nowhere. These are very, very established and expert ground commanders being used on that particular day. Bob Broadhurst is probably the most experienced commander in the country in terms of major events. His Silver commander, the number two, heads the public order branch of the Metropolitan Police; and the Bronze commanders were all very, very experienced commanders. So this is stuff that they do on a daily basis and the human rights part of it is built into the training that we are given; it is built into stuff when we both gave evidence last time that Sue was talking about, to ensure that officers consider human rights and

consider their lawful powers. The mnemonic PLAN is the watchword for everybody who does public order—proportionate, legal, accountable and necessary. That is something that is drummed into them on everything they do—PLAN is used the whole time.

**Q97 Dr Harris:** This issue about negotiations. I would argue, from what you say, that you would expect your officers to be proactive and contact via the website the people who are planning a protest like this, would you not, rather than rely on these demonstrators who may or may not be anarchical to contact you with a neatly typed letter in triplicate asking for a meeting over a cup of tea.

**Assistant Commissioner Allison:** We are not expecting it quite like that, sir, and I did accept that there was an issue in relation to the Climate Camp; when they tried to get into the organisation it took a bit of time to come through.

**Q98 Dr Harris:** It is even worse than that because you are saying that there was a failure to react; you have accepted that, and it was not passed through quickly enough to your commanders.

**Assistant Commissioner Allison:** Yes.

**Q99 Dr Harris:** But I am asking, surely the commanders not having anything should they not have been proactive in seeking to find out those questions from the proposed protesters?

**Assistant Commissioner Allison:** Certainly, sir, I know in events before what we have done is we have gone out there and our most effective way in the past has been to use the media to ask people to come forward and liaise with us. We regularly do that; we ask anybody who is intending to do any event, “Please come forward and speak to us” because we do not necessarily know who the organisers are. In relation to the group that was managing the four marches going to the Bank, who were the organisers? Our most effective way of getting through to them was, “Let us get the message into the media.” Let us put this into perspective: there was a large number of protest events that took place in that week that passed off perfectly peacefully to their satisfaction because organisers had come through. We will be looking as one of the learnings out of this to say, “Is there a way in which we can get better at trying to identify those people who may be holding events, who are not liaising with us and seeing how we can at least put something out there to say, “Look, this is the telephone number; this is the person to ring, come and speak to us,” and we will be looking at that.

**Q100 Dr Harris:** It would be better if you could pass us an email saying, “We emailed Climate Camp at . . . and it is not there.”

**Assistant Commissioner Allison:** That is one of the things that we will be looking at, how we can use new technologies in an appropriate way so that we can try and foster that dialogue. As has been said by the



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12 May 2009 Deputy Chief Constable Sue Sim and Assistant Commissioner Chris Allison MBE

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Chair, those are those individuals who will deliberately not speak to us because they do want to subvert the Public Order Act.

**Q101 Dr Harris:** You heard the lady from Climate Camp who gave evidence before; she did not seem to be one of those individuals.

*Assistant Commissioner Allison:* I did, but Climate Camp did not want to talk about the detail of their protest, they just wanted to talk about some arrangements between them and us but were not willing to talk about the detail of the process and I think it is important for us, if we are going to be a no surprises piece it is about working together, we have to get into the detail of the protest.

**Q102 Dr Harris:** That is your assertion of your view of the meeting that took place the day before.

*Assistant Commissioner Allison:* Yes.

**Q103 Dr Harris:** I am going to call the kettle a cordon because it is less—

*Assistant Commissioner Allison:* Containment, sir.

**Q104 Dr Harris:** Containment.

*Assistant Commissioner Allison:* Thank you.

**Q105 Dr Harris:** Do you think that the purpose and reason for imposing the cordon was at all times plain to those constrained within it, in this case?

*Assistant Commissioner Allison:* If I read some of the reports from some of the individuals from the media who were inside the cordon, who saw the changes in behaviour from the crowd towards the police officers—and I think it might be helpful for the Committee to put a timeframe around this—four groups of individuals met at various stages and made their way through the streets to one central collection point. Police cordons were put around to mark the edge of what was a demonstration area but these allowed people to come and go. After a period of time—there was no restriction on people coming and going and there was restriction on the space in there; if you look from the Heli-Tele pictures you can see there was lots of space for the people there—when those cordons came under attack from a variety of missiles and violent behaviour from the protestors the Bronze commander then decided that it was appropriate, because he feared that serious disorder was about to take place, and this was in effect the crowd had reached the critical mass, which we have seen in previous demonstrations—and again I can give the history about where containment came from—that it was appropriate to prevent this disorder then going widespread throughout the city and us seeing lots of damage and disorder taking place because it had started to break out against police officers, and it was then appropriate to put the cordon lines in. I am sure from some of the video clips that I have seen from the media inside that they are reporting what they can see and they are reporting that police officers are now coming under attack and they are some considerable distance. Did everybody in that crowd know that the police lines were coming under attack? Probably not,

sir, I cannot say that everybody did; but I think a significant number will have seen something going on and many of them will have moved themselves away from it because I accept that there were many, many peaceful protestors there. Sadly, there was a violent element right in the middle.

**Q106 Dr Harris:** My question was do you think that the purpose and reason for imposing the containment cordon, the kettle, was at all times plain to those constrained within it? And you are accepting that that was not the case.

*Assistant Commissioner Allison:* I think for the majority of people who were in there, they would realise that we had put a containment in and will have seen the disorder. The containment is only very rarely used, but it has been the subject of much debate in the past and so most people on that protest, I would be very surprised if they had not heard of it because it was being talked about in the media.

**Q107 Dr Harris:** Would you say it was the case that those who were not demonstrators or were seriously affected by being confined—complaining about it—were promptly permitted to leave? Is that your contention, that that was the case?

*Assistant Commissioner Allison:* No, sir. What I would say about that—and this is a very important point from our point of view—we fully accept the challenges with the containment option. This was something that was played out a lot in the High Court action about which I gave evidence, about how do you distinguish between a violent protestor or somebody who has used violence or is likely to use violence against somebody who is totally peaceful? As yet nobody has been able to come up with that magic answer. There are some opportunities to identify individuals who have nothing to do with the protest—as we have seen in some cases, a French tourist who happens to be walking through there; somebody who actually works in a bank in that particular environment. But we do accept that there were some people who were contained within that cordon who themselves were not violent or would not have wanted to be violent. The challenge for the Service—

**Q108 Dr Harris:** And were not able to leave.

*Assistant Commissioner Allison:* And were not able to leave. The challenge for the Service is that how do we ensure that that widespread disorder that does happen, if you suddenly release everybody and you have a violent element within it, does not take place. This was heard at length throughout the judicial process.

**Q109 Dr Harris:** I understand. I am just asking a series of questions to which I am trying to get relatively specific answers. I think you have answered that; I think you have accepted that. Did the kettle last for as short a time as possible? In other words, were there attempts made to lift it but found to be impractical by the officer on the ground and

then, “No, we cannot do it, let us re-impose it?” Or was it a fixed time, “We will keep this going until nine o’clock,” or whatever?

**Assistant Commissioner Allison:** Let me reassure you, sir, there is no such thing as a fixed time on it. There was a regular review process that took place and was documented by the Bronze commander about the review, and there were occasions when the containment was not in completely—there were occasions as have been talked about I think by some of your previous witnesses, about where it was not incomplete and those who wanted to leave could get out of that particular location. On a couple of occasions the police officer lines were breached by individuals who tried to force their way out. But regularly throughout the afternoon, from the time it went into a containment the Bronze commander undertook a review process to see if it was possible to start releasing people from that cordon.

**Q110 Dr Harris:** We have seen video evidence of people not being allowed through and we have the evidence from a number of people, including Mr Brake—who I think you thought was quite fair in saying that the majority of police officers seemed professional, and his written evidence seems objective—who says that only very rarely could he find anyone being let through. Do you have video evidence of your own showing people being let through that can contrast with what we have seen that you can share with us, because at the moment it does not look as though hardly anyone was let through, and you accept yourself that there was only a minority of people who needed to be contained.

**Assistant Commissioner Allison:** I accept, sir, that there were people who were stuck in that cordon who we could not distinguish whether they were going to be violent or non-violent. I do not have video evidence of exactly how many people we let out through the cordons. All I know, having spoken to the Bronze commander, who was responsible, he made sure that he put one of his sub-Bronzes as the locations, either covering one or two cordons with the directive for them to brief the officers to let people who were clearly not part of the protest to go, and they had discretion for what they were going to do.

**Q111 Dr Harris:** If someone with a camera—I do not know how often people with cameras are violent, they might want to protect their equipment—if you have evidence of people with press cards and cameras and video cameras being convicted of violence in scenes like this, okay, but on the assumption that if someone does not let one of those people through when the instruction was that only the people who are likely to be violent should be let through, do you say that is either a disappointment or something that should be looked at as per conduct of the officer who is not letting a journalist with a camera and a press card through who wants to go?

**Assistant Commissioner Allison:** That is an entirely different matter, sir, to what I am saying.

**Q112 Dr Harris:** I am asking you to answer that one.

**Assistant Commissioner Allison:** I think in terms of what you said that I said, the briefing that was given to officers was wherever you have somebody who is part of the demonstration, who is clearly not part of the demonstration, and operationally you can release them, then please try and do that, but you have discretion and you have discretion around other people approaching you. Were we asking officers to distinguish between violent and non-violent protestors? It is not possible to do sir, as I gave in evidence at the High Court a number of years ago. That is a very, very difficult challenge. In relation to the press issue, yes, we heard a number of bits of evidence here and I have heard a number of reports. In fact on 21 April we actually engaged with the NUJ and said to them, “Can we have, as part of our debrief process, any of your individual learning so that we can feed it into future events?” I think as I gave evidence here last time we had actually listened to the evidence that had been given and we invited representatives from the NUJ to come and speak to our officers who command these events. We fully accept the right of the media to be there and report on events. We still need to make sure that we are getting the messages all the way through to our officers to ensure that they do understand the right of the media to operate in that environment; but operationally there may be times when we cannot let them out.

**Q113 Dr Harris:** Do you accept that failure to let people out of a kettle may make a kettle that is lawful under the case law—

**Deputy Chief Constable Sim:** Excuse me. I am sorry to interrupt you, Dr Harris, but can I just make it very, very clear that there is no public order tactic that is called “kettling”. I am sorry to interrupt.

**Earl of Onslow:** Everybody else calls it a kettle.

**Q114 Dr Harris:** You have a containment cordon—what I understood was a kettle—do you accept that there are certain things if you mismanage that, allegedly, if it is shown that you have mismanaged it by not letting people out who could clearly go out, that may make that method of crowd control, which is lawful based on common law and the case law, unlawful because it is not being managed in the correct way. Do you accept that is a possibility?

**Assistant Commissioner Allison:** I fully accept, as I said right at the start, we are accountable for everything that we do. We are accountable here, we are accountable through the courts.

**Q115 Dr Harris:** I just want you to answer that question.

**Assistant Commissioner Allison:** I fully accept that the officers who used this tactic on that particular day will have to show, in a variety of fora, that what they did was proportionate, was legal, was necessary and was accountable, and they have the documentation to be able to say that. It will be for others to judge. They will say, “We considered all of

the options that we had; we looked at the tactics and having done that we made what was an appropriate and proportionate decision.”

**Q116 Dr Harris:** I am not asking that question. You have said that twice now. You know *Austin*, you are aware of the *Austin* judgment; I am trying to ask you this question and I will ask it for the third time: if that containment cordon is not handled appropriately in terms of, for example, doing your best to let people know what is going to happen and why it is happening—kind of no surprises, if you like—and letting people out who should be let out on all accounts, not just benefit of the doubt but obviously so, if that is not done do you accept that that could make the containment cordon that starts off as being lawful under common law and case law unlawful because of the way it is operated?

**Assistant Commissioner Allison:** We need to be able to show—and I am sorry, sir, I can only answer it in the same way—that what we did was lawful and accountable at the time and was proportionate. The officers who are doing it considered this all the way through and have documentation to say why they kept the cordon in place. We accept that there are challenges about this particular tactic but the choice we have and why we moved to containment from where we were before is when we did not contain crowds, when we had violent disorder taking place—

**Q117 Dr Harris:** Colleagues may well ask you about that because I have limited time.

**Assistant Commissioner Allison:** It is quite an important point, sir.

**Q118 Dr Harris:** I know and please feel free to make it; I just have to finish my line of questioning because I do not want to test the patience of the Chairman. You know the *Austin* judgment and *Austin* set out in paragraph 57 of Justice Neuberger’s judgment the circumstances in which in his view if those circumstances were met that containment cordon was lawful. Is it your contention, knowing the case as you do, that those eight criteria were all or mainly met in the case of these containment cordons at G20? Or is it your contention that they were not mainly met but nevertheless you would argue that it was still lawful?

**Assistant Commissioner Allison:** Forgive me, sir, I do not have the eight right in front of me at the moment.

**Q119 Dr Harris:** They are very brief and I will tell you just to remind you. “The cordon was imposed purely for crowd control purposes, to protect people and property from injury; the cordon was necessary as many of the demonstrators were bent on violence and impeding the police; the purpose and reason for imposing the cordon were at all times plain to those constrained within it.” Something I have already asked you. “The cordon lasted for as short a time as possible; during its imposition, the police attempted to raise it on a number of occasions, but decided that it was impractical; the inclusion of the person complaining and the demonstrators constrained with the complainant within the cordon was

unavoidable; those who were not demonstrators, or were seriously affected by being confined, were promptly permitted to leave.” Something I asked you about. “Although the complainant suffered some discomfort, it was limited, and the police could not have alleviated it.” Furthermore, someone could move around within the cordon, and I accept that that is probably okay. Finally, “The appellant knew in advance that many of the demonstrators . . .”—that is the complainant knew in advance—“intended to cause violence, and that the police were concerned about this.” Is it your view that those were mainly met in these containment cordons? Or, even if they were not you would hope that a judge would still find what was done was lawful?

**Assistant Commissioner Allison:** Having listened to them, sir—and I have to put that I was not in command but I am here being accountable to this Committee—I would say that those were met. Those eight were met, which is why the team put the cordons in place.

**Dr Harris:** That is a clear answer.

**Q120 Chairman:** Can I follow up on that issue briefly, Mr Allison, and it is this. We are the Human Rights Committee and we are concerned about the rights of individual human beings. You are looking at this group of people as a collective, as a group of demonstrators you want to contain for the reasons and the test outlined by Evan Harris. Our concern is not just about the amorphous mass of protestors, some of whom may be violent and some put their hands in the air and say, “This is not a riot” and all the rest of it. But each individual person has rights in these circumstances and your interference in using the cordon process has to be justified in relation to each of those individuals concerned. My issue from what we have seen and all the evidence we have seen so far is that a lot of people, who were nothing to do with the protest, who would, according to you, have had legitimate reasons to be released from the cordon were simply not allowed to do so. So whilst it may not be a general infringement of the rights of the collective in relation to the individual it may well have been. That is our concern here.

**Assistant Commissioner Allison:** I can understand your concern, sir, and that was obviously tested at length throughout all the processes in relation to the May Day protest—the *Austin* and *Saxby*, which ended up as the *Austin* case. That was tested; that specific thing was tested at length. Whilst I fully accept that the Committee is talking about the rights of individuals actually our role as a police service is that we constantly have to balance the human rights of many, many different individuals; that is not just those who wish to protest but those who wish to go about their daily business unimpeded, about those who want to run their businesses in that particular environment.

**Q121 Chairman:** Like the example of tourists who get caught up in it or the elderly couple who happen to be wandering around or Mr Tomlinson, who was going about his lawful business.

**Assistant Commissioner Allison:** If we talk about the tourists, as I mentioned earlier to Dr Harris, the instruction to people on the cordons was that wherever possible those who were clearly not part of the protest, if we could identify them and they wanted to leave the cordon, then we would try and let them leave the cordon. So that is the learning that came out of that particular event in 2001 and then the judicial processes for us making sure that we take forward the tactic. So the challenge for the service is that we are constantly having to balance different groups' human rights and, as I say, in our use of this tactic against individuals—because again we accepted in 2001 that there were some individuals within that group who themselves may not have been violent—we had no other choice but to do that.

**Q122 Dr Harris:** Do you think that the judgment in *Austin* means that you can use this containment cordon whenever you think it is appropriate, on the one hand; or are you now going to look at the House of Lords judgment and see whether the tests that they say gave them the ability to say it was lawful are met? Or is it just, “We think it is appropriate, we are going to do it”, based on *Austin*?

**Assistant Commissioner Allison:** Dr Harris, I would reassure you—and what I said to the Chairman right at the start—this is a tactic that is very, very rarely used by the Metropolitan Police. In fact I can only think of a couple of occasions that it has been used in terms of public protest in the last six years.

**Q123 Dr Harris:** Let us concentrate on those rare occasions when it is used.

**Assistant Commissioner Allison:** Rare occasions when it is used we have to ensure—because we are held accountable in law—that what we are doing is lawful; so it is proportionate, it is necessary, it is accountable.

**Dr Harris:** How do you test that? Did they test it against those criteria? Maybe they are the wrong criteria?

**Q124 Chairman:** Sue, did you want to add something?

**Deputy Chief Constable Sim:** Mr Dismore, could I just explain the containment issue? One of the things—Dr Harris, picking up on your point—that I would expect from ACPO is that there was clear communication with the crowds; that the containment was considered along all those lines that you have considered, that you have raised; that it was put on for a minimum period of time necessary; and that if through communication people came forward and needed to come out that they should be allowed to do so. That is what the containment tactic is. But of course, as Chris has pointed out, the issues behind the theory of it—and that is the theory and the way it is taught to the commanders—then has to be weighed against the absolute operational issues on the day; that those things you pointed out, Dr Harris, are requirements from ACPO in relation to the tactic of containment, which was I made the point that it is not “kettling”. I was not trying to be rude to you or the Committee.

**Q125 Dr Harris:** Mr Allison, you have had a briefing, as you are entitled to.

**Assistant Commissioner Allison:** Forgive me, but my colleague is a lawyer who works for us and is an expert in this particular matter and it may help the Committee if we provide a document. But the view that we have in terms of what the *Austin* case says, if I have it right, the view was that it did not engage with Article 5; this was found as correct within UK law, and it did not engage with Article 5, if I have that right. But we can provide a document.

**Q126 Dr Harris:** In the circumstances of that case.

**Assistant Commissioner Allison:** Yes, the circumstances of that case. So to suggest that it was around Article 5, it was not; what they are saying is, “What we did was proportionate and necessary under UK law” and the Article 5 was not engaged.

**Dr Harris:** In those circumstances; so circumstance specific.

**Q127 Chairman:** Perhaps I can put it to you in this way. From both ACPO and the Met is there a written policy setting out what containment is and the circumstances in which it can be used? If so, was that changed in any way following the *Austin* decision?

**Deputy Chief Constable Sim:** The manual of guidance, *Keeping the Peace*, has the issues that need to be considered in relation to the tactic of containment included within it. I can provide that to the Committee for your information.

**Q128 Chairman:** That would be helpful.

**Deputy Chief Constable Sim:** It is reviewed, as I said last time, on an annual basis, so the judgments will have been considered during the review.

**Q129 Chairman:** Can we have the before and after *Austin* versions?

**Deputy Chief Constable Sim:** I will try and make sure that I find those.

**Q130 Chairman:** And a similar question for the Met.

**Assistant Commissioner Allison:** We follow the ACPO guidance, Chairman. Forgive me, I am not sure what guidance there was in the ACPO manual prior to the *Austin* case, but there may have been some. Certainly, if we look historically for two seconds, sir, why did we get into the use of containment as a tactic? It was because of a number of public order events which had turned disorderly where we used the tactic of dispersal. I can talk about the 1993/1994 Criminal Justice Bill demonstrations, which ended up with demonstrations outside this place, also in Park Lane, which ended up in disorder through the West End and, also, some of the early May Day protests. When you end up dispersing a crowd that have turned violent, the criminal damage and disorder that is caused is significant, the use of force that the Police Service has to use is significant to try and stop that disorder taking place, and the impact on members of the public who are going about their daily business is significant. We then moved, following J18, which was significant disorder in the City 10 years ago, to a containment tactic, and

it was first used in public protest at something called N30, which was a protest around Euston, where the group, some of whom had been involved in the J18 protest, focused on Rail Track in a bout of disorder, turned over a police vehicle, set it alight and were going to go, we believe, on the rampage through the West End again. We used the containment tactic at that particular time. The rationale behind the containment tactic, in terms of the overall peace, is a reduction in crime and disorder, because we actually see you require less use of force from the Police Service to put in place a containment than you do if you are dispersing crowds through the streets of London. It is quite important to say that these are not training grounds with nobody else there but police and protesters; these are busy streets through which members of the public are going about their daily business; they may be just shopping, they may be coming to this particular place, they may be going to work, and if you have got disorder breaking out and we are having to run through the streets using vehicle tactics and using mounted tactics, a significant amount of force is required—actually, far more than if we put a containment around a crowd.

**Q131 Mr Sharma:** Why were people leaving the containment, to use your term, subject to stop and search and the recording of their details? Under what legal provision was this done?

**Assistant Commissioner Allison:** Forgive me, sir, this is something that we will, on occasion, use if we have had disorder break out where a number of people within a crowd have committed offences and we fear, therefore, they may continue to be disorderly and may have weapons. We can use a power under section 60 to search those individuals, so as they come out through the cordons we can use our powers to search and we can ask them for their name and address. It is part of our standard recording procedures. At the same time, in some cases, we will video those individuals so that if we do not have evidence against them specifically at that time for offences that they were involved in but as we do a review of all the evidence of that day we can then marry up individuals who may have committed offences, we can bring them to justice. It is a tactic that we have used; on a few occasions when we have used containment we have done that particular identification process as people have left. We cannot force people to give their names and addresses but it is something that we are required to do, in law, which is ask people for their names and addresses because we are accountable for what we do. It is completed on a section 60 stop and search form.

**Q132 Mr Sharma:** Do you expect other police forces to use containment to manage protests?

**Assistant Commissioner Allison:** I may hand this to Sue. I think it is one of the tactics, Sue, is it not?

**Deputy Chief Constable Sim:** Yes, containment, as I explained before, is a tactic within the manual, of which I will provide you a copy. As Chris pointed out before, what we require in relation to public order policing and policing of protests is that all the information has to be considered. I would expect, as

Dr Harris pointed out, that there was consultation and communication between the groups, if we can get it (because I did point out that the time before it is also quite difficult), and then the Gold Commander will set out the strategy, as I am sure was done in this case, the Silver Commander looks at the tactical options, and containment would probably be one if the circumstances for putting it in place were appropriate; that is, that there is going to be potentially major disorder, major violence or damage to a property. So if those were in place it would be a tactical option that the Silver Commander could consider for the Bronzes to put in place.

**Q133 Chairman:** I should say we have also checked the transcript and the police did not use the word “storming”; a journalist did.

**Assistant Commissioner Allison:** Thank you very much.

**Q134 Chairman:** You are in the clear on that particular issue. Also, I should say that, as I mentioned earlier on, we saw a video in private that had been supplied by *The Guardian*, and if there is any video evidence you would like us to look at on the same basis, we would be happy to do so.

**Assistant Commissioner Allison:** Certainly, sir, I know there is some video that we have shown. There is some video that we have got from news media that has been made available that we can get to the Committee.

**Q135 Chairman:** That is up to you, but if there is anything you want us to see we would be happy to do so. A couple of very short questions from me. We heard evidence earlier on about plain clothes officers being inside the crowd. Is there any evidence of that? Do you know anything about that?

**Assistant Commissioner Allison:** Sir, I heard what Tom Brake MP said about that. I will look every single one of you in the eye here and say that we do not deploy *agent provocateurs* into the crowd. If there is any evidence of that I would like the people who have got it to bring it forward, and we will mount an investigation. An allegation has been made against us in the past around this, where a named individual was then subsequently investigated and that was found not to be the case. So if there is any evidence out there I would like it because I want to investigate it, because it is not what the police service does.

*The Committee suspended from 4.01 pm to 4.11 pm for a division in the House of Lords*

**Q136 John Austin:** Chris Allison, you have referred, in response to Dr Harris, to the guidelines with the NUJ, yet we have received evidence of journalists being assaulted, of journalists being ordered to leave an area and of attempts to ban photography. What was done in advance of the G20 to brief police officers on how to deal with journalists and what the code of guidance was?

*Assistant Commissioner Allison:* It is included in all of our operation orders, sir, about the role of the media—the fact that they have a right to operate in that particular environment, subject, obviously, to obvious operational considerations because there may be times when the media wants to do something and they want to stand in exactly the spot where police officers want to stand. Subject to that, then we should facilitate the free access of the media to be able to do their job. We fully accept that, and that is the briefing that has gone out. Clearly, we have asked the NUJ, as I think I said earlier, for any instances, any stuff that we need to know about as part of our debrief process, to try and make ourselves get better. We fully accept that from every event we can learn, and if there is stuff that we can learn in relation to the media here we will learn it. I think we also accept, and it was mentioned here by Nick Hardwick and others, it is not just the media; everything that we do as a Police Service now is under scrutiny—and quite rightly so. Everybody is carrying mobile phones, everybody is carrying videos; we have to accept—and we do accept—that we are accountable for our actions and people have that right to video us. That is just part of modern day policing, not just in protest but in day-to-day activity.

**Q137 John Austin:** One can understand the reasons why you might want to move a photographer from one place to another, but to trying to remove them from the entire area so that they cannot cover the events that are going on—

*Assistant Commissioner Allison:* I am not aware of any particular occasions where that happened within G20, sir, but if it has then, obviously, that is the stuff that we would like to have in the debrief so that we can understand.

**Q138 John Austin:** Certainly there is evidence which suggests that that was the case.

*Assistant Commissioner Allison:* Certainly, from what I saw, there was no order whatsoever that went out, sir. I was in the command and control suite for significant parts of the day. We accept the right of the media to report on what goes on; we accept the right of the media to be present in that we would not seek to try and (subject to the operational considerations, as I have said) prevent that from taking place. Where we need to ensure that we get better is on individual instances where this has not happened, and then we need to make sure we understand why it has not happened. If it is to do with briefing then we need to get the message through in relation to briefing. If it is to do with us not discussing with the media beforehand various bits about the policing operation then, again, it is about this two-way conversation. We started that off, recently, as I gave evidence last time, by having the NUJ as part of our briefing of our command cadre. I think that helps break down any concerns there may be.

**Q139 John Austin:** So all of your officers at G20 would have been aware of the guidelines?

*Assistant Commissioner Allison:* Every officer who does public order is aware of what the guidelines are, and it is not just in relation to public order, it is in relation to policing; policing, our job, is we do not prevent the media from undertaking their job.

**Q140 Chairman:** Does that include the City of London Police?

*Assistant Commissioner Allison:* I cannot talk for the City of London Police, but I assume it would be exactly the same.

**Q141 Chairman:** We have seen video evidence, and it is absolutely plain: a City of London inspector, in the Ian Tomlinson video, ordering journalists away under threat of arrest if they did not leave the area for half-an-hour. I cannot understand what the public order requirements of that were, but he was ordering them to leave.

*Assistant Commissioner Allison:* I cannot comment on that particular case, I am afraid, sir.

**Chairman:** It is absolutely plain; there is no argument about it.

**John Austin:** A City of London police officer without his number either.

**Q142 Chairman:** It was an inspector, so he would not have a number.

*Assistant Commissioner Allison:* I think this is an important point to say, sir, because inspectors—and it has been raised with us by my police authority—and officers above the rank of sergeant do not have numbers; what they have is insignia to represent. The rationale around why do they not have a number or something is, well, PC 123 or Sergeant 74; when they are inspectors they have a warrant number which is their basic joining number—

**Q143 John Austin:** If an inspector is asked to identify himself—

*Assistant Commissioner Allison:* They then should identify who they are, but they are in that environment. The reason they do not have a number is they have got two pips, which shows they are an inspector, and shows they are a supervisor, and there are few supervisors in that environment.

**Q144 John Austin:** Perhaps we can share the film with you later. Clearly, a City of London inspector with no number who then refused to identify himself.

*Assistant Commissioner Allison:* But had his pips on, sir.

**Chairman:** There were two incidents; that was a separate incident.

**Dr Harris:** He gave his station.

**Q145 Chairman:** He gave his station. That was one inspector, but another inspector we saw was clearly ordering journalists to leave the area several times and when they refused to go said: “Okay, that’s it”, and it was the threat of arrest if they did not leave. “They are going to spend the afternoon in the cells”, as he put it.

*Assistant Commissioner Allison:* I cannot comment on that particular incident; I am not aware of it.

**Q146 John Austin:** Can I follow through with DC Sim and ask if there has been any progress since our last report to ensure that police officers, generally, are aware of the ACPO guidelines on the rights of journalists?

**Deputy Chief Constable Sim:** As I said in my introduction to Mr Dismore, we have actually got a document completed now that is out for consultation that has been supported with speaking to journalists, that has been built on best practice from the Metropolitan and from the Police Service of Northern Ireland that you identified last time. That has all been pulled together. It is all out to consultation, and it will be introduced.

**Q147 John Austin:** It will be?

**Deputy Chief Constable Sim:** It will be rolled out completely. That is what will happen. If I could just pick up on the numerals issue, to let you know where it sits in the police guidelines, this is the issue that you will probably want to consider. The manuals of guidance in relation to public order are just that; it is not a codification; it is not a mandatory requirement. They are documents of guidance—the ACPO manuals. It is contained within that which says that constables and sergeants must have their numerals displayed, but it is a document of guidance.

**Q148 Chairman:** So it is a guidance which says they should do it, so “must” is probably the wrong word.

**Deputy Chief Constable Sim:** No, it is guidance which says that they must do it as good practice, but it is not a codification; it is not a mandatory requirement.

**Assistant Commissioner Allison:** I do not know if you have specific questions about this issue or if you want me to talk about it now, sir, because you have talked about it and it is important that it is discussed.

**Q149 Chairman:** Let us hear your point of view about not wearing numbers.

**Assistant Commissioner Allison:** Unacceptable. It is unacceptable, and it has been made quite plain by my Commissioner and been made quite plain by a number of senior officers across the organisation. Lots of talk has happened since G20. Yes, this was raised as an issue, as we talked about earlier in relation to the Parliament Square protest, and, again, we learn the lessons. The issue was actually raised and is documented as part of the briefing by the Gold Commander on this particular event, which was to say that it was the responsibility of all supervisors to ensure that everybody was wearing their correct numerals. I would say the overwhelming majority of officers at the G20 event were wearing their numerals. There were clearly some that were not, for a variety of reasons. We have identified there are some issues about clothing; there were some reports in the media about officers covering or taping their numbers. Actually, what we have identified is it is not tape; it is their command flashes. I showed this to the police authority a couple of weeks ago. We have already put some arrangements in place to change those to such an extent that the command flashes, which were at the

top of the epaulette and were then falling down. People were saying: “You’re covering your numbers”; actually, we now make sure the numbers are on top of the command flashes and they are actually woven in (this is what we have done on some of our units) to ensure that their numbers cannot come out. It has, clearly, been said now by the Commissioner post-G20 that it is totally unacceptable for officers not to be identifiable so they can be held to account. The message has gone out across the organisation; I have sent them out to all levels of command, and you will be aware, sir, for the last 36 days we have been dealing with Tamil protests.

**Q150 Chairman:** We are going to ask you about that later.

**Assistant Commissioner Allison:** I have been outside on a number of occasions just thanking my colleagues for what they have been doing, and one of the things I am checking, and I expect every supervisor to check, is that every officer is wearing the correct numerals.

**Q151 Chairman:** We will come on to the Tamils shortly. Just to finish on the number point of view, as we heard, in relation to the previous inquiry into the problems in Parliament Square with the Countryside Alliance, that was a problem there. Will we see supervising officers—sergeants and inspectors—hailed over the coals for allowing their junior officers to do this?

**Assistant Commissioner Allison:** The answer, sir, is yes. It has been made quite clear in the messages that I have sent out, post-G20, for every public order event, that not only do I expect supervisors to ensure that their officers are wearing their numerals but I expect those who are supervising the supervisors not only to brief but to go out and physically check themselves. So trust but verify, and where there are individuals who are not wearing numerals, not only will we take appropriate action against them we will also look to the supervisors. There is one case that has happened since which received much publicity in the *Evening Standard*, where I know the officer concerned was spoken to and I know the supervisors have been spoken to. So this is something that we are taking seriously.

**Q152 Chairman:** What about wearing balaclavas to obscure your face?

**Assistant Commissioner Allison:** I think that is another important bit that I mentioned at the authority, sir: that it is not a balaclava. What that is is something called a “head-over”. Part and parcel of the public order equipment that we officially give to every officer enables him to work in a variety of violent disorder situations, because you can never be sure what is going to come round the corner once you are in public order kit. One of the things that happens when you get a petrol bomb thrown at you and it lands at your feet is the flash burn comes up into your face and, as a result, you burn your face. This head-over is given to all officers so that when they are deployed in public order equipment they

can wear that so, if they are petrol-bombed, they do not get injured in any way. This is not designed to hide their identity; it is part of the official public order equipment that we give them.

**Q153 Chairman:** Would they wear that automatically when they kit up, or would there have to be some indication that there was a risk of petrol bombs first?

**Assistant Commissioner Allison:** No, sir, I would say this is part of the equipment, because we never know what we are going to be dealing with. To my mind, in terms of our health and safety duty of care to our officers, it is not appropriate to say to an officer: “Right, the intelligence is there are no petrol bombs here, so put up all your public order equipment including your NATO helmet, but don’t put the flashover on because we don’t think . . .” and then, all of a sudden, somebody brings out a petrol bomb, or brings out something that is inflammable. So the take from me is when we put officers in the kit then they should wear all of the kit. We cannot suddenly stop and say: “Hang on, there’s petrol bombs; we just need to go and kit up”; we actually need to be there protected. I think it is important to say it is very, very rare that we wear public order protective equipment. In all of the events—and I think we gave this evidence on the last occasion—I can only think of, prior to the Gaza protests earlier on this year, two or three public protest events where we wore public order protective equipment. On all of those occasions it was there to protect the officers because of intelligence we had about what people in the crowd may do to themselves rather than ourselves; concerns about people self-immolating and, as a result, officers would rush to protect that individual, try and save their life, and we need to protect them. So it is a very rare occurrence in public protest that we wear public order equipment in London.

**Q154 Earl of Onslow:** We now move on to stop and search. Can you explain why there has been such a huge increase in the numbers of people stopped and searched under section 44 of the Terrorism Act? I think it comes to 117,000 last year, and I seem to remember somewhere there was a figure of only 78 people who were arrested as a result of it. I did not see the figure of how many convictions arose as a result of it, but it does strike me, to put it mildly, that that seems rather an excessive use of stop and search powers.

**Assistant Commissioner Allison:** As I say, you will have to forgive me because this is not my immediate area of expertise, but I can talk in the generality in relation to this.

**Q155 Chairman:** Perhaps Sue could answer.

**Assistant Commissioner Allison:** I think this specifically relates to the Metropolitan Police, does it not?

**Deputy Chief Constable Sim:** It relates to the Metropolitan Police and the way that section 44 is applied. It is not applied in the same way across the country.

**Assistant Commissioner Allison:** I can give you some general details, sir, but I may not be able to get into all the detail that you want, and we may have to give you something subsequently.

**Q156 Earl of Onslow:** As a matter of observable common sense, if you stop 117,000 people and you arrest, as a result of that, 78 people (which I think I seem to remember reading somewhere), that does not seem to be a very productive use of police time, to put it no other way, laying aside any inhibition on the rights of the individual to go about his lawful business without let or hindrance.

**Assistant Commissioner Allison:** If I just talk about the facts as I understand them, sir (and you will have to forgive me because I am going without a full briefing on this), we do, and have, up until now (and I will say “up until now” because I will talk about the future), applied section 44 across the Metropolitan Police area for the majority of the time it has been available to us—not always, but for the majority of the time. I think the period in question that we are talking about is post the Haymarket bomb attempts back in 2007. It is that particular period. Part of the use of the section 44 power is around deterrence as well as reassurance. Certainly, in certain areas where we have got crowded places where we know there are likely to be terrorist targets, or places which are iconic sites, such as areas around this particular building—the government security zone—this is a power that is used by officers to both reassure the individuals around and, also, act as a deterrent for those who would wish to commit terrorist acts. I am aware that there are concerns; it has been well-documented and well-discussed. In fact, a colleague of mine took a report to the police authority about the way in which we will, in future, use the counter-terrorist powers, and we are now going to try and use it in a far more targeted way across London. So around iconic sites, as a result of intelligence or information, in certain areas in London, we will start trying to use those powers, recognising the public concern about it. It is a very effective power in terms of the deterrent—we know that—and it is important that we have it for that reason.

**Q157 Earl of Onslow:** I understand that. I also understand, I think, that you are, in some cases, between a rock and hard place. You say that modern terrorism is, on the whole, Arabic inspired or Muslim inspired, and if you tend just to look at Muslims, as opposed to my late great-aunt Vera, you are going to be accused of all sorts of racist cards, and if you stop and search my late great-aunt Vera you are going to be accused of stopping and searching people totally pointlessly. I quite accept there is a difficulty there. However, 117,000 people (with 78 arrests) does strike me as excessive.

**Assistant Commissioner Allison:** It was being used, as I said, as one of the powers in our fight against terrorism, and we do not use it against any specific sections of the community because we do know terrorism can be drawn from all sections of society;



individuals can change their views within their lives. As a result, we use those powers to provide that reassurance and deterrence, as I say.

**Q158 Chairman:** But it comes down to the fact that you are going to change the practice in relation to use of section 44.

**Assistant Commissioner Allison:** There is a recognition, sir, about the way in which we have been using it. There has been some public concern. There was a report, and I am sure you will find it (it was on the Metropolitan Police website from last week), about a change in the way we intend to use it in London.

**Q159 Chairman:** This is the report from Mr Yates?

**Assistant Commissioner Allison:** It will have been from Mr Yates, yes. There is a colleague of mine who works on it with Mr Yates, and it would have been Mr Yates that would have presented it for and on his behalf.

**Q160 Chairman:** So the reports in *The Guardian* are probably accurate?

**Assistant Commissioner Allison:** I have not read *The Guardian*, sir, so I do not know what the reports are.

**Q161 Lord Dubs:** In Nottingham there were some climate change protesters at a school, and the police took pre-emptive action against them. Can this ever be justified?

**Deputy Chief Constable Sim:** I have made the point clear that we cannot talk about the specific issues around the Nottingham case, on the grounds that—

**Chairman:** In general terms.

**Q162 Lord Dubs:** In general terms.

**Deputy Chief Constable Sim:** In general terms, what I would expect to happen, we have what we call a “conflict management model”, which is held to be in relation to public order policing, to the policing of firearms incidents and to the policing of critical incidents. The first thing that is part of that is the information and the intelligence that we can gather in relation to any forthcoming incident, and it is an operational policing incident. Dependent on the circumstances, and it literally is something that has to be justified through the Gold and the Silver logs, pre-emptive action could be taken. However, it has to be very pertinent to the individual case, and the officers concerned at Gold, Silver and Bronze level have to be able to justify through, I would say, policy logs their actions and the decision that have been taken.

**Q163 Lord Dubs:** Are there any safeguards or checks that such powers have been used properly, after the event?

**Deputy Chief Constable Sim:** There are all the RIPA powers and there are all the management of police information powers, so that there is a whole variety of powers which safeguard intelligence and make sure that the policing activities are undertaken properly.

**Assistant Commissioner Allison:** Also, sir, if I may, we can also take it wider than that; we can be held to account through the courts. So for individuals who feel that we have made unlawful arrests in certain cases—if we have—or if, as we had in the May Day case, people feel there was inappropriate use of the law, they can take us to either a judicial review or a High Court against the action. So we are accountable in relation to this. What is important about what Sue says is we get some information and intelligence about what we think is going to take place, and we then have to balance that against what our policies, powers and procedures are, what the law is, which enables what we can do, and that then defines the action that we can potentially take. We have to go through that cycle, as Sue says; we cannot just suddenly, willy-nilly, do; we have to show that if we want to act it is appropriate for us to do so in law.

**Q164 Lord Dubs:** You will have appreciated, in human right terms, to take such action in advance of any offence having been committed, you have to be on pretty firm ground.

**Deputy Chief Constable Sim:** The bit that Chris did not mention is that if I draw it as a circle and it is contained with the manual, you start off with the intelligence that you have gleaned. You then have to undertake, in line with human rights and in line with all other legislation, a threat and risk assessment about what that information has told you on what the threat is in relation to serious potential damage, serious disorder—serious threats to the community. So all that has to be taken into consideration. Then it has to be looked at in line with the Human Rights Act and in line with all other legislation before you then go on to consider the tactical options that are available to you. Yes, we do take it very, very seriously, but if we were to take pre-emptive action it is because it has to be justifiable and proportionate.

**Q165 Chairman:** You say there is ACPO guidance on this.

**Deputy Chief Constable Sim:** Yes.

**Q166 Chairman:** Can we see that?

**Deputy Chief Constable Sim:** The MoPI?

**Q167 Chairman:** The ACPO guidance on this issue.

**Deputy Chief Constable Sim:** It is contained within the document that I am going to give you.

**Q168 Chairman:** Thanks. One last question about G20, because it came out of the session right at the beginning. Seven o'clock became the sort of “witching hour”. Did something change at 7 o'clock from the police point of view?

**Assistant Commissioner Allison:** I suppose a combination of things occurred. The clearance of the protest in and around the Bank area was starting off. A number of people who had earlier been in (it was not starting off; in fact it had been going for a bit of time) and around that environment had been seen to make their way into the Climate Camp, and whilst we accept a significant number of the Climate Camp individuals were perfectly peaceful protesters there

were those in and amongst them that were violent. We had three police carriers there throughout the afternoon which were criminally damaged and all the tyres slashed throughout the afternoon. So there were some individuals around. The Climate Camp, when they had met with the Gold Commander on the Tuesday had been told, although they refused to discuss the details of their plans, that if they intended to put a camp down on a public street in the middle of the City of London, at some time the Police Service would have to move in and move it because of the serious disruption that it was likely to cause. So they had been warned about that. So once the Climate Camp was formed the officers knew that at some time they would have to move the Camp on. Their focus was originally on the Bank where the violent disorder had been. The concern was that if we did a clearance of that particular area those who had been involved or engaged in violence would make their way to the Climate Camp area and then, once again, we would have challenges and difficulties with them. So cordons were put around the outside of the Climate Camp at the same time. I have heard reports about what sort of cordons they were. I have spoken to the Command Team; they were cordons that people could leave, so if you wanted to go—and many people did not want to go—from that area you could go, but they were designed to prevent other violent protesters (because we already knew there were some in there) getting in there and making the job of doing that slow clearance later subsequently harder for us. Why did police put cordons around the Climate Camp at that particular time? That was to prevent any more violent protesters getting in there and making it subsequently harder for us to move that demonstration subsequently under section 14.

**Q169 Chairman:** Was there any attempt to explain to the demonstrators, at one point: “Okay, you are not allowed to leave. Now we want you all to go home”?

**Assistant Commissioner Allison:** Yes, they were told, under section 14. I have not spoken to the officer personally but I have spoken to the officer who was standing next to the person, who was a chief inspector, who was using a loudhailer on one of our carriers at the southern end of the cordon line explaining that section 14 was going to be used, and the rationale behind section 14. People were allowed to leave that cordon area. So when the cordons were put in from 7 o'clock, those inside were allowed to leave if they wanted. Some did, many others chose not to, and when it came to actually moving that cordon subsequently when we had sufficient resources to do it—I think 10 o'clock was the time mentioned (forgive me I cannot remember the exact times, sir)—that is when the section 14 messages were given out over the police loudhailer system.

**Q170 Chairman:** Just a couple of questions about the Tamil demonstration outside. It has obviously been a feature on the floor of the House yesterday and on previous occasions. Is it lawful and authorised under SOCPA?

**Assistant Commissioner Allison:** They have a SOCPA authorisation to undertake that protest, sir, yes. The SOCPA authorisation does limit the numbers they are allowed, but, as you have seen on occasions, the numbers wax and wane. I make no bones about it: this is probably one of the most challenging protests that I have had to deal with in my policing career, just because of the nature of the individuals: clearly, passionate about their cause—and you can understand why they are passionate about their cause—willing to commit mass civil disobedience but willing to mobilise in very large numbers very, very quickly, which does create a challenge for the Police Service because we do not have large numbers of officers just on standby; our officers are out deployed, policing communities across London. For any event we have to draw those officers in to police these events. So if we suddenly need large numbers of officers, it either creates a lot of planning for us to do, or we have to mobilise them over a period of time.

**Q171 Chairman:** Certainly, it appears to have been policed in a pretty low-key way. We have had obstructions caused and people not allowed to get into Parliament. This is a particular issue. Have you taken a decision to police this in a low-key way, or is it simply a question of resources and you cannot do anything about them blocking the road?

**Assistant Commissioner Allison:** There is a combination of factors. Every protest has to be dealt with on its merits and according to the circumstances—also, on the basis, as Sue says, of the intelligence you have got. It is back to the conflict management model. What are we dealing with? What is the risk and threat assessment? What are the policies, practices and procedures we have, and what is the law? In relation to this, I am well aware because I have given evidence, obviously, to yourselves and another Committee about protests around Parliament and access to this particular House and the challenges we have. There are four entrances to this House; throughout the period of the protest we have always ensured that there have been three open. That is what we have sought to always continue to do. You will notice yesterday, actually, we were able to mobilise sufficient resources to move some of the crowds. It took us some considerable time to do it, over a period of time. So it is not just about resourcing, but that is a significant part of it; there is a range of other factors that we need to put in place. What this does is it reinforces for me the discussion that we have been having with both the Home Office and officials from both the Lords and the House of Commons about the nature of what any new legislation will look like if SOCPA is repealed. (I think this is what I said on the last occasion): it is most important that protesters and the Police Service and other members of public and everybody in this House has a clear understanding about what is acceptable and what is not acceptable out there, so that, again, we can have this “no surprises” debate. The challenge we have a bit now is about what is acceptable and what is not, and what is access to the House and what is not access to the House.

**Q172 Chairman:** Are the Tamil organisers liaising with you effectively or not at all?

**Assistant Commissioner Allison:** We do have liaison with some of the Tamil individuals. I would not say that they are always organising their particular group, sir. There are challenges with that. On one occasion we can have some very close dialogue and we are working very closely; on other occasions, when they suddenly mobilise, they are not going to tell us they are suddenly going to mobilise, and if they suddenly produce 3,000 individuals—and they can do it very, very quickly, and they have done it very, very quickly—they usually do not tell us about because, obviously, they have another game-plan in mind.

**Q173 Chairman:** How many people are they supposed to have?

**Assistant Commissioner Allison:** Their SOCPA authorisation is for 50. If we think about the number of times they have had the number I have just talked about, I can only think of a couple of occasions they have done that. If we go back to the start of the protest, which was 6 April, initially they were not authorised; they had their march and they applied for authority and got authority. Most of the time the numbers have been within the due amount, because they have been running this 24 hours a day for, as I say, I think, 34, 36 days.

**Q174 Chairman:** One of the issues that arose before, and I think arises now, is the question of whether there is some sort of double standards over the policing of different types of protest by different groups of people. Why can Climate Camp not set up camp in the City whereas the Tamils can set up camp in Parliament Square?

**Assistant Commissioner Allison:** As I said, sir, every protest is different and has to be treated on its merits, and has to be looked at in terms of what is taking place. Also, we have to take into account the resource capability for us as an organisation. Suddenly to move just 300 or 400 people requires a lot of police officers. As we saw yesterday, just to move 400 police officers required us to mobilise all the reserve asset, all the training asset of the organisation, bringing a whole load of serials on early to enable us to do it. Clearly, if we had all the resource there available right at the very start of the protest, if we knew it was happening, then we would not allow individuals to block the road. So there is the resource element. I cannot afford for the people of London to have 1,000 police officers, or even 500 police officers, on permanent reserve in and around here, just in case there is a protest, given that we know, on the majority of days, there are only 50 to 100 people. We are denuding the policing of the rest of London; we are stopping communities getting the police officers they should have. The Climate Camp, again, on that particular issue, the Command Team went through the conflict management model and they had explained to the Climate Camp prior to the event that if they camped on a main highway and a main thoroughfare, in the City of London, that was

likely to cause serious disruption under the Public Order Act, then it would be moved under section 14, and that is what they did. We had the resources to enable us to do it at that particular time. Imagine: G20 we had planned for some considerable time, sir.

**Q175 Earl of Onslow:** When you were last here I asked you about the lady who read out the 10 names on the war memorial.

**Assistant Commissioner Allison:** Yes, sir.

**Q176 Earl of Onslow:** You gave me quite a little lecture—

**Assistant Commissioner Allison:** My apologies, sir, if I did. I did not intend—

**Q177 Earl of Onslow:**—on how the law should be obeyed, and all the rest of it. Do you not think that when that little lady gets arrested for doing 10 and you allow the Tamils to go from 50 to, as you said, 3,000, that is the sort of thing which looks very strongly like dual standards, and what brings the police into ill-repute? I really am desperately worried that the vision I have of the police now is not one that I had 20 years ago. That concerns me and worries me, despite all the good policemen around. That is the sort of thing that does it.

**Assistant Commissioner Allison:** I suppose it concerns and worries me, sir, that you do not have the same view of us as well. What I would say is we are in a very different place in those two cases. I talked to you about the Miles Evans case. At that particular time, the individuals knew what the law was and deliberately decided: “I am not going to comply with the law”. Since that case has been heard, the Government themselves have produced a consultation document which actually says they do not think that SOCPA is the right law for this particular area, and they would wish to change it. As a result, we are in a different place in terms of the general view of the SOCPA law that was held, not necessarily just by us but by the Crown Prosecution Service. What we are doing is we are working, at the moment, to try and ensure that we manage protests around Parliament so those who want to protest lawfully, within the law, do so, and get their protest, while we minimise the disruption to others. What I am looking forward to is some clarity for the future about what the new law will say to enable us to manage what is a very challenging environment for us, because lots of things go on in this environment and we need to be able, once again, to balance the competing rights of different individuals who work here.

**Q178 Earl of Onslow:** I am not in any way suggesting that your job is easy because I know it is difficult and I know you are making choices the whole time. So accept what I said with that caveat.

**Assistant Commissioner Allison:** Thank you, sir.

**Q179 Chairman:** Thank you very much. It has been a marathon session.

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12 May 2009 Deputy Chief Constable Sue Sim and Assistant Commissioner Chris Allison MBE

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**Deputy Chief Constable Sim:** Could I make a point about something that Mr Brake said in relation to my evidence to the Public Affairs Committee? I was asked the question as to whether the issue of plain-clothes officers was contained within the manual of guidance, and I did say no. I then went on to clarify the point that it is not an acceptable policing tactic, which is why it does not occur in the manual. I would like to echo Chris in thanking both Mr Brake and the journalist who spoke at the start of this session in echoing my views: I am very, very proud of our public order assets, of our policing of protests. That

is not to say that we cannot learn, and we will learn from Committees like this and the HMIC review into the G20, and from the HMIC review. You have our word, as ACPO, that we will be putting the learning into place for future policing.

**Chairman:** Thank you both very much. As I say, it has been a marathon session. For those that are interested, our next session on the issue will be on 2 June with the Minister Vernon Coaker, who will come and give the Government's point of view on what has been going on. Thank you both for coming.

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**Tuesday 2 June 2009**

Members present:

Mr Andrew Dismore, in the Chair

Bowness, L  
Dubs, L  
Onslow, E of

Prashar, B  
Dr Evan Harris  
Mr Virendra Sharma

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*Witnesses:* **Mr Vernon Coaker**, a Member of the House of Commons, Minister of State for Policing, Crime and Security, and **Mr Christian Papaleontiou**, Head of Public Order Unit, Home Office, examined.

**Q180 Chairman:** Good afternoon everybody. This is, I hope, our last evidence session in the re-opened inquiry into policing and protest. We are joined by Vernon Coaker MP, Minister of State for Policing, Crime and Security, Home Office, and Christian Papaleontiou, Head of the Public Order Unit at the Home Office. Welcome to you both and thank you for your prompt reply to our first report on this and your intermediate reply after the G20. I think it is very good that you were able to agree with most of what we had to say, in theory. The real issue is how it all translates into practice, and I think that is the issue we will be wanting to pursue with you. Do you want to make any opening remarks before we start?

**Mr Coaker:** Chairman, can I thank the Committee for the constructive relationship that we have had, and can I also thank the Committee for formally putting in their response—we had (me as Minister but also the Home Office) tried to respond promptly to the various points that had been made—and, indeed, for your opening remarks. We have worked very closely together over the last two or three years and human rights is a very important part of the work that I do. I take a human rights approach to these matters and the relationship that I have with this Committee is very important. I just wanted to put that on record.

**Q181 Chairman:** Thank you. Obviously, since we published our last report we have had the G20 demonstration, and that has given rise to a lot of public concern and you have got inquiries now by the IPCC and the Inspectorate of the Constabulary. What role does the Home Office have in reviewing how protests are policed and ensuring that the lessons are learned? You recall that last time we had the Climate Camp in Kent and you promised lessons had been learned from that, but it seems that perhaps that may not have been the case.

**Mr Coaker:** Obviously, all the time we have discussions with senior police officers, we meet with campaign groups, we meet with campaign organisations and through that dialogue, through that discussion, we try to ensure that the policing of demonstrations in this country reflects the way in which I think the majority of people in this country would expect those demonstrations to be policed. We take a proactive and creative role in that. We oversee the various reviews that take place, we try to co-ordinate those reviews and, obviously, when those reviews come forward, our responsibility then

would be to try to ensure, working with the police and with others, that the recommendations, where appropriate, are taken on board and taken forward.

**Q182 Chairman:** One of the problems we have got is that the Climate Camp people, Frances Wright from their legal team, tell us that what happened at G20 was what they consider to be the normal policing of protests. Obviously there has been a furore about the police tactics there, as there has on previous occasions involving, effectively, peaceful protesters who are being a little bit imaginative in the way they do their protesting—let us put it neutrally like that. Obviously there is a lot of concern about the police tactics. Are you disappointed to hear that sort of reaction from people like that?

**Mr Coaker:** I think that it is important that, if people experience problems or if there are issues, we should not try and brush those under the carpet. So if Frances comes forward with the points that have to be made, I think that is important. I know Jeremy Dear from the National Union of Journalists has made points. If he has got problems, they should come forward. If members of the public have got problems, they should come forward. If campaign groups have got problems, they should come forward. There should not be a sense in which people should not feel able to come forward with respect to that, it is important that they do, and it is important then that we reflect on what they have to say, think about what has actually happened with the particular public order incident or demonstration that they have referred to where there have been problems and try and learn from that. I would point out as well, Chairman, that there are these high profile cases where it appears to go wrong and where there appear to be difficulties, but there are huge numbers of demonstrations, huge numbers of protests which take place up and down the country in different situations, some of which are quite difficult, some of which actually are issues of great controversy, and they take place without the sorts of comment that we sometimes see. I think when people come forward and make the comment that there is an issue, we need to listen to that, we need to look at it and see whether there is credibility to it and whether there is credence to it and try to learn from that, but, clearly, we should also put that in the context that the vast majority of public order is done very well and there are not the complaints that we sometimes see.

**Q183 Chairman:** This may come back to the “no surprises” issue which we reported on and discussed before, but is not part of the problem here the fact that the traditional protest, the protest march that starts from A to B and then disperses, not how big it is, is to the police less of a problem and when you have protesters who have innovative tactics and ideas, that is what catches the police out and that is what leads to some of these problems?

**Mr Coaker:** It certainly can lead to some problems, but (and, again, it is one of the issues that the Committee highlighted in their report) it is the whole issue of communication, the whole issue of discussion and the build up of trust between the police and those who demonstrate, and in the best cases, and in the majority of cases, there is a constructive relationship which takes place where people are able to feel that they can protest, where they feel they can actually demonstrate, but, also, at the same time people can feel that the police are able to make sure that public order is maintained. It is that communication and that build up of trust with the demonstrators which is paramount. Of course, if there are innovative tactics, if there are different ways of doing things, that will present a different challenge to the police, but the police have to also take into account there are peaceful demonstrations which might be unlawful, and you cannot just say it does not matter what you do as long as you are peaceful, the police have to take account of what the law is as well. As I say, communication is the key. We are seeing increasingly the police trying to work with people about demonstrations, about protests, and in many ways, Chairman, facilitating that protest and helping them make it a success from that point of view.

**Q184 Mr Sharma:** Why should police officers be given more discretion to deal with public order issues?

**Mr Coaker:** I think the whole issue of public order is that there is a legislative framework, Mr Sharma, as you know, that the police have to operate according to, and there are disciplinary codes that police officers have to deal with. Clearly, there is the Public Order Act, which is the main piece of public order legislation, there are other pieces of law which the police operate according to, but also, alongside that, as well as the police officer operating according to the law, the police officer operating according to the legislative framework, you also want the police officer not to be a robot, to actually be in a situation where they can make a judgment about what is the best possible way of dealing with a particular situation. We always look at it from the way the police are arresting people; sometimes the police will not arrest even when they would have the power to arrest because, in their best judgment, it is not appropriate in that circumstance, and that is the proper use of discretion; not only for the police officer to say, “I know, I have got the power and I am going to arrest, but also to actually say, “It is not sensible in this case. It is not reasonable in this case,” or, “My professional judgment tells me that in order to police this person properly, to police this

demonstration properly, then I will.” The last point I would make is that, although you need a framework, as I say, which gives you the principles according to which the police officer operates, it is very difficult in legislation to lay down absolutely every single situation which may occur. How do you frame a law which says: I know every single situation which may happen on the streets or in a protest or in a demonstration? It may be that you do have to sometimes say the professional discretion of the officer is something that is particularly important in this situation.

**Q185 Mr Sharma:** The police are reviewing training and guidance on human rights, but these generally seem to be aimed at commanders. How will you monitor whether ordinary rank and file officers are aware of what protecting human rights means in practice?

**Mr Coaker:** First of all, can I say, Chairman, I know that in the response that we gave there was the feeling that what we had actually done was just concentrating on senior police officers, but human rights training is part of the training that every police officer receives when they become police officers. Human rights training is something that is absolutely essential for front line officers as well as for senior officers, and, indeed, many of the things that are now being taken forward, I cannot remember exactly what the official title is, but under the public order body now that ACPO have got they have actually set up a human rights group that will look at the implementation of policy, chaired by a PSNI officer, and they will be able to make recommendations, and I am sure one of the recommendations that they will make is about the need for human rights training to be an essential part of what a front line officer receives. On a broader point, training is absolutely essential. You will have seen Commander Broadhurst’s testimony to the Home Affairs Select Committee, where he actually said that two days a year for public order training was not sufficient and he would like that to be increased to four days, and part of that would actually include, as I understand it, a human rights element to it as well.

**Q186 Mr Sharma:** AC Allison told us that police commanders did not seek advice about the human rights compliance of the tactics they used ‘on the day’ during the G20 demonstrations. Should they have done so?

**Mr Coaker:** Obviously it is difficult when you start getting into the detail, because the HMIC are looking into the specifics with respect to what happened at G20 but my understanding is that they will have taken legal advice. With respect to the human rights aspects of it, usually in the Gold Command room there is a lawyer, or there is certainly access to a lawyer. I think one of the interesting questions, Chairman, that we could ask, or we should ask of the police is whether, when dealing with these sorts of big demonstrations or, indeed, any public order events, the legal advice they have access to is not just legal advice but is legal

advice from someone who also has a speciality or some better knowledge with respect to human rights legislation and human rights procedures, so that they can advise the police perhaps in a more forthright and straightforward way than might otherwise be the case if you get a general lawyer.

**Q187 Chairman:** That would seem to be following the Northern Ireland example, which we were very impressed with when we went over to meet the Northern Ireland senior officers who are involved in this. I was pleased to see somewhere in your response that the PSNI senior officer, I think maybe the lead officer, will be playing a major role in the ACPO work on this. What we were particularly impressed with was the way that in Northern Ireland the training filtered all the way down to the individual officers at the very bottom of the pile about what their responsibilities were in relation to human rights, and also the availability on the days of protest of specialist lawyers, not uniformed officers, who could give expert legal advice on the applicability of human rights to the Gold Commanders actually making the major decisions around the demonstration. I think those are the things that we were particularly impressed with, and perhaps that could be fed into the ACPO work on this.

**Mr Coaker:** Yes. I accept that and agree with much of that. The HMIC review that is being conducted by Dennis O'Connor is actually looking at the model from the PSNI to see what we can learn from it. Of course, the other point to make, Chairman, is that Sir Hugh Orde, currently the Chief Constable of the PSNI in Northern Ireland, will actually become the President of ACPO in the not too distant future and, hopefully, will bring some of that experience that he has got from Northern Ireland to his role in ACPO. You are quite right—I have found the bit that I was looking for—the ACPO Public Order and Public Safety Group have established a human rights working group led by a PSNI officer, which is the point that you have just made. I think that sort of access to it is essential and will help to fundamentally change some of the ways in which these things are looked at and done.

**Q188 Earl of Onslow:** Before I ask the question which is written down in front of me, there is something which has been slightly worrying me, and it is the difference and the dividing line between policy on policing and operational effectiveness. If, for instance, you say, “We do not like kettling”—just take this as an example—and you then say to the senior policeman, or ACPO, “Do not use kettling”, does this go over the dividing line between what is policy and what is operational?

**Mr Coaker:** It does.

**Q189 Earl of Onslow:** When I saw the gentleman who was coming with you is head of the Public Order Unit in the Home Office, it struck me that there might be something. It is where this dividing line is. I need it to be made clear in my own mind, and I am a seeker after truth, not trying to catch anybody out.

**Mr Coaker:** As always, Lord Onslow. You and I have had many discussions at these committees. The issue of how a demonstration is policed is a matter for the police officers and the senior officers. That is their operational independence. However, we live in a democratic country, and committees like this, and ministers, have a responsibility to say, “These are some of the things that we think are important”, but at the end of the day the policing of the G20 demonstration, the policing of the Tamils outside of Parliament, the policing of an anti-war demonstration or a pro-jobs demonstration, whether in London, or Cardiff, or anywhere, is the operational responsibility of the police, and their responsibility is to ensure that that demonstration can take place in a lawful way and also to ensure, as far as is possible, that people can go about their normal business as well.

**Q190 Earl of Onslow:** Let us assume that a sign of disapproval goes out from you on kettling, but the police officer on the ground thinks that the only way that he can deal with this situation using minimum force, which is his common law duty, is to use kettling, he would be entitled to do it, would he?

**Mr Coaker:** Yes.

**Q191 Earl of Onslow:** Thank you very much indeed. Now I can go back to what the crib says.

**Mr Coaker:** As long as it is lawful, the police are perfectly entitled to take the operational decision.

**Q192 Chairman:** We are going to have some more questions about kettling.

**Mr Coaker:** We use the word containment.

**Q193 Earl of Onslow:** Okay. I was also using it as an exemplary, not as a question. We had evidence from the Climate Camp people, and the lawyer for the Climate Camp people said that she tried to get in contact with the police and the police refused it, and the police said, if I remember rightly, “We tried to get in touch with the Climate Camp people and they did not talk to us.” Now somebody was talking porky pies there or, in general, something had gone wrong. In our oral evidence it was evident that the police and the Climate Camp were very wary of each other. In that context, how can an effective dialogue to create “no surprises” be developed and what can you do?

**Mr Coaker:** To be honest about it, there is not a magic wand answer to that question. Sometimes I write to my own constituents who say they have written to me and I have not written back to them. Do you see what I mean? I do not mean that as a trivialisation of a very important issue, but I think at the end of the day what is not helpful is a situation where people feel that they are asking to speak to the police, or the police feel that they are asking to speak to protest groups and then, for whatever reason, people feel that it has not happened or it has not happened satisfactorily. That clearly means, therefore, that there is a challenge to both the police but also, I have to say, to campaign groups to ensure that they do meet with each other and talk to each

other about what is happening. It has to be said that one or two of the campaign groups, not the vast majority, would probably themselves not really wish to speak to the police.

**Q194 Earl of Onslow:** We have certainly had evidence of that. One has certainly seen on the television people saying, “No, we are not going to.” I quite accept that, but what can be done to improve where there is apparently a mutual desire to talk each other and like ships in the night they pass each other by?

**Mr Coaker:** I think the police should make clear to protest groups and campaign groups who they think are to be involved who they should contact in order to speak to, should offer and seek dialogue, and, similarly, one would hope that the majority of people (and I believe they would) who are seeking to demonstrate or to protest would themselves go to the police as well. It really relates to a certain extent back to your previous question that by exhortation, by encouragement, by discussion through committees like this, through recommendations that no doubt you will make through the Chairman, and, indeed, some of the things that I am saying and putting on the record here, the importance of this cannot be over estimated. It is of such huge significance, I think, to actually have a situation where dialogue takes place, where trust is brought about, and I think in the majority of situations that occurs and where it does occur you get all the benefits of that. As I say, there are no quick or easy solutions, but we will do that. Let me say this at the end as well, that speaking to protest groups is not dancing with the devil; speaking with protest groups is important. Speaking with the police is also important, and so that mutual responsibility we have to encourage, and if I can broker any discussions between groups to try to help bring that about, then I will do.

**Q195 Chairman:** One of the things that came of out of the previous evidence session was the real difficulty the Climate Camp people had in making contact with the police in the first place. They had an intermediary in the end to facilitate that and then, when they did finally have a meeting very late in the day, there was no meeting of minds between the police who wanted one thing and the protesters who wanted something else. So that is something you clearly have to try and work at to break down, but part of it is trust and part of the trust element from the protesters point of view is believing that what they tell the police is not going to be exploited against them but is going to be seen as a genuine partnership to facilitate protest rather than prevent it. I do not think that confidence is there at the moment.

**Mr Coaker:** No, I agree with that. One of the important points that again you have made in the recommendations that you have made is that the whole point of that discussion with the police should be about facilitating protest, and effective protest, not preventing it.

**Q196 Chairman:** Can I come on to the question of kettling, which the Earl of Onslow raised with you. We will call it kettling; you can call it containment. We have to agree to differ.

**Mr Coaker:** Okay.

**Q197 Chairman:** I presume from the answer that you just gave to the Earl of Onslow, apart from the question about whether kettling is actually consistent with the European Convention—we will park that as an issue because I do not suppose we are going to agree on that at the moment—do you think that kettling should be used against protesters even where the vast majority are perfectly peaceful?

**Mr Coaker:** I think containment is a tactic that should be available to the police to use when they think it is appropriate to do so. I think the reason that they do that is because they make a professional judgment that, in order to prevent serious problems or serious difficulties, that is the tactic they can use. We all know from a recent court judgment *Austin v The Commissioner* that that the courts found that it was lawful for the police to set up cordons.

**Q198 Dr Harris:** You accept that is case specific?

**Mr Coaker:** Yes, all I am saying is as long as it was proportionate, as long as it was reasonable. I am just making the point that the courts found—

**Q199 Chairman:** In the circumstance of that case, but I am going to put some scenarios to you.

**Mr Coaker:** Okay

**Q200 Lord Bowness:** Forgive me, I think this is a dangerous road to be going down now, because this is dismissing this judgment as case specific. I know it was decided on the facts, but surely we have been advised that certain principles applied, and they would not just apply to one particular case. If I am wrong about that, somebody please tell me before we continue the conversation on the basis that it is all to do with *Austin* and nothing else.

**Mr Coaker:** That is fair comment. Let me move back to the more general. I think that containment is a reasonable tactic for the police to use if it is reasonable and proportionate in the circumstances to do so. I think one of the things that you have to consider is that, if the police do not use that, what tactic is it that they would use if they believed that there would be a problem?

**Q201 Chairman:** This is the question, is it not, that I put to you? If people are misbehaving, behaving violently in a difficult public order scenario, that is one thing. If you have got a group of people putting their hands in the air saying, “We are not rioters”, why do you need kettling to contain them?

**Mr Coaker:** As I say, in the general sense of the word, one would expect the professional judgment of the police to be used for them to decide when it is appropriate for them to do so or not. There have been occasions in the past in demonstrations in the City where the police have not contained demonstrations and people have dispersed and there has been massive disorder, criminal destruction,



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criminal damage in different places across a wide area, and it is a judgment that they make about trying to ensure that the demonstration is kept as peaceful as possible.

**Q202 Chairman:** The point about it is this: if you have got a potentially violent or disruptive group, that is one thing, but if you have got a load of people who are perfectly peaceful, who are not intent on causing criminal damage or any other forms of violence or invading buildings or whatever, that is a different set of circumstances, is it not? Certainly if you have got very clear intelligence that people are behaving in a violent or potentially violent way, you know who they are, because any big demonstration is going to attract a fringe element, there is no doubt about that, but why do you have to brand the thousands of people there perfectly peacefully to make their point with the ill-intentions of a small fringe element who are intent on causing trouble?

**Mr Coaker:** Of course, you would expect it to be used, as I say, where it is legal to do so, where it is proportionate, where it is appropriate and where it is necessary. I can only say from a policing point of view that is when you would expect that tactic to be used. I do not expect it to be used in every situation. I am not a professional police officer. All I am saying is that as a tactic it is something that should be available to the police to be used when they think it is necessary and proportionate to do so.

**Q203 Chairman:** Would you agree that the permeability of the containment/kettling is important?

**Mr Coaker:** Of course.

**Q204 Chairman:** Because the evidence we received in relation to the G20 is that nobody was being allowed out of the kettle, in particular people who were perfectly innocent bystanders, including the poor chap who died, who was trapped inside a kettle; he was just trying to get home. We have had other examples given to us of other people who were innocently caught up in the whole thing who were not allowed out. We had an instance of somebody who had an injury who was not allowed out because he wanted to bring somebody with him to look after him on the other side of the kettle. He was going to be allowed out but the person who was going to look after him was not going to be allowed out. It is quite clear that there was no permeability at all to speak of in relation to that kettle, despite what the police were saying at the time. We have had very strong evidence from a number of witnesses to that effect.

**Mr Coaker:** I do agree that permeability of the cordon is an important issue, and certainly within the context of G20 that is something that HMIC, again, will look at. In general terms, if the police are going to use the tactic of containment, then all of the things that you have mentioned, Chairman, are things that need to be considered. It is absolutely essential that issues like toilets, people who need access to medical help, who may have a genuine family issue, maybe people who are innocent who are caught up in it, of course all of those things are

important and need to be considered alongside how you actually maintain that particular tactic. I agree with that, and that is something that I do think is important. I also think in terms of this as an issue, one of the things that does need to be looked at is how the police communicate with the people who they may have put within the cordon, how they explain to them what is going on. Again, we were talking about communication before in terms of communication with pressure groups, in terms of communication with people who may be organising the protest, but certainly I think communication between the police and those who are protesting, particularly in a potentially difficult situation like that, is extremely important, and I do think we are going to have to look beyond having the ordinary one loudhailer, or something, to see whether there are other ways of doing that as well.

**Q205 Chairman:** I think that is a very important point. Certainly in relation to the G20, up until 7.00 p.m., or thereabouts, nobody was allowed to go home, and shortly after 7.00 p.m. they were told they had to go home straightaway and the decision was not communicated very effectively that the position had entirely flipped.

**Mr Coaker:** Again, as you will have noticed, I have tried to not comment specifically, for obvious reasons, but the general point is that, if you are policing a demonstration, the communication between the police and those who are demonstrating is absolutely fundamental, and I think we need to consider how to do that more effectively than we have.

**Q206 Chairman:** You certainly agree that things like water, medical treatment, toilets, proper information should be in place before the kettling starts.

**Mr Coaker:** If you in any sense believe that you are going to maybe use that tactic, then I do think you have to carefully consider all of those different things that you can and, wherever possible, all of those things should be in place.

**Q207 Chairman:** We had evidence that people wanted water, the police said there was not any water and yet they could see in the back of the police van crates and crates of plastic bottles of water.

**Mr Coaker:** As I say, I do not know about that. All I am saying is that, wherever possible, if you are using that particular tactic, all of the things that you have mentioned are important. I would mention as well, Chairman, the issue of people trying to get home for a particularly important family occasion—all of those sorts of things—again goes back to the question I think Mr Sharma was raising about the training for the front line officer, the discretion that the front line officer has to make those decisions as well on the front line on the basis of who they see in front of them and the judgment they make about them.

**Q208 Chairman:** One of the things we have seen is the guidance from ACPO which was issued after the *Austin* judgment, and it sets out the things that should be taken into account in relation to containment: “Keeps incident/event localised, buys time whilst awaiting extra resources, may be used to protect vulnerable property and persons, resource intensive, and can be difficult to maintain, must have a clear legal basis and be subject to regular review, exit strategy required.” It does not actually say what the law is post *Austin*, that the decision has to take into account the necessity of proportionality of the decision to kettle in the first place. So will the Home Office try and ensure the ACPO guidance is helpful to officers, first of all, by being legally accurate, by making the point that it has to be necessary and proportional, which is the point that you have made today, and also perhaps giving some detailed guidance along the lines that we have been discussing now about how it should be implemented with a view to the additional permeability issues in relation to the resources that should be available for the people inside?

**Mr Coaker:** Chairman, as I say, overall I think the police do an excellent job, but I am always prepared to speak to the police about matters that are raised to me by committees or wherever. Certainly the issue of the legality and the necessity of proportionality is an important legal point and something that I am sure they will consider.

**Q209 Chairman:** Is not the issue this, and this is a point I put to Assistant Commissioner Allison last time, that the police view the people inside the kettle as a “collective”, failing to acknowledge that each individual person within the kettle has their own individual human rights? They are not being approached as individuals with their own human rights to be protected and respected, they are simply seen as an amorphous group of people who are a problem for the police to handle.

**Mr Coaker:** Chairman, you know from what I said in my opening remarks that I think it is important to see this through a human rights perspective. I understand absolutely the point that you have just made. Let me just say this. As I have said, overall I think the policing of public order in this country is excellent; I think overall the policing of the G20 was fine. There are issues that emerged, there are issues that we need to look at, and one of those is the very point that you have just made, and I will ensure that I will speak to the police about it.

**Q210 Dr Harris:** You said you thought the policing of the G20 was fine in general. Have you formed a judgment, following an investigation, that in general it was fine—apart from the cases that we know about it was fine—or is that just the usual political support of the police by the Minister?

**Mr Coaker:** No. In an overall sense, I think it was a success. The issues that we are discussing here are issues that the HMIC will look at. There are individual problems that have occurred. It is just a view that I have.

**Q211 Dr Harris:** Some people would argue that until those reports are in, it might be premature to describe it as a success, particularly given the *prima facie* evidence, which we do not have to go into, that there were some major issues of conduct—badges being covered up and beatings. I was just a little surprised.

**Mr Coaker:** As I say, that is why I have not commented specifically, I have commented generally. I have made general comments and that was a general comment.

**Q212 Dr Harris:** I want to follow up something that the Chairman asked, because I asked questions on this last time. Did you or someone in your office talk to the police following *Austin* but prior to G20 about what the lessons were of *Austin* in respect of how the containment of each individual can be ensured to be lawful as best you can, or ACPO just does it itself with no reference to the department?

**Mr Coaker:** The answer is I do not think specifically we spoke about *Austin*, no. Did we meet the police before the G20 took place? Yes, we did.

**Q213 Dr Harris:** It is disappointing that the ACPO guidelines that the Chairman just listed do not make the key point that was clear in *Austin*, whatever else might be questionable in other cases, that each individual has a right not to be contained except where it is proportionate, not arbitrary, and necessary in each case. So the fact that these ACPO guidelines do not mention that is disappointing, and I want to know whether these are things you were aware of in draft and no-one in your department noticed the fact that there is this gaping hole in them, or whether they are just never referred to anyway and you are happy for them to just press on with these big policy issues without reference to your department?

**Mr Papaleontiou:** In evidence to the Committee I think Chris Allison was very clear that whenever they do use containment, they are trained to consider issues of proportionality, they do not take it as a blanket ability to contain people, and it is clear in the guidance . . .

**Dr Harris:** It is not in the guidance.

**Q214 Chairman:** The problem we have here, reading the guidance (and actually I do not think the guidance is nearly specific enough, and I will put one last question about that in a minute) is whether the guidance is actually filtering through. We have got reports from Commander Broadhurst, who was in charge on the day, admitting the police do not receive sufficient training in public disorder. He said to the Home Affairs Select Committee when asked if he was satisfied officers received sufficient training, “No, I am not”, and he has also made the point that the number of days training for Metropolitan police officers on this has been cut from four days to two days a year, and this has resulted in them not being given the softer skills of communicating with demonstrators, which is precisely the point that you said should happen.

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**Mr Coaker:** In answer to Mr Harris' point and then your point, Chairman, first of all, the guidance is being rewritten in the light of experience and, indeed, it will reflect the recommendations from this Committee and the comments made by this Committee and elsewhere in terms of trying to improve it, amend it and adapt it. I am sure some of the points that have just been made will actually be reflected in the new guidance.

**Q215 Chairman:** Can we see a draft copy of the guidance?

**Mr Coaker:** I cannot say, because it is ACPO guidance, but I can say to ACPO the request that you have made. It is not for me to be able to say, yes, you can, but what I can commit to, Chairman, is to ask ACPO whether they are willing to share the draft with you.

**Q216 Earl of Onslow:** The fact that they only have two days training a year on public order strikes me as rather less than I had as a national service officer before you were even a glint in the milkman's eye!

**Mr Coaker:** Actually it was an answer I gave earlier to Mr Sharma when Mr Sharma asked about training, and I said that in evidence to the Home Affairs Select Committee, which Mr Dismore has referred to. Commander Broadhurst said that he did not think that the training was sufficient, that at the moment it was two days and he thought it should be at least four.

**Q217 Earl of Onslow:** Whose responsibility is it to make sure that the police are properly trained in riot and public order control?

**Mr Coaker:** In terms of ensuring that they have that, the police make judgments about what training should be made available to their officers, and one of the things that he is saying is that, given the nature of demonstrations and protests and all of those things that happen at the moment, there is a need for increased training of some of the front line officers.

**Q218 Earl of Onslow:** Are you telling me that no minister can say, "It appears to me that the police are not properly trained in public order control. ACPO, where is your training programme? I want to see it. I want to see it improved"? I would have thought that was policy.

**Mr Coaker:** I cannot dictate to people about what training they should have. All I can do is to try to encourage good practice, which is what we are doing and is one of the reasons why the guidance will be changed. They will be strengthened on the basis of the experience that people have had and they will continue to be revisited.

**Q219 Earl of Onslow:** There is no ministerial responsibility for police training? Have I got that right or wrong?

**Mr Coaker:** I cannot dictate to the police what training they should or should not do.

**Q220 Dr Harris:** Can I ask my last question? In order to meet this provision that it is something that is not arbitrary for the individuals, which the Chairman made clear, would you accept that in the hypothetical case of someone on the perimeter, a police officer saying, "No-one is coming through, mate", as politely as that, is, by definition, arbitrary because it does not matter about the individual circumstances of the person if there is a blanket ban on anyone leaving the containment area? That does not meet the requirements of proportionality, necessity and lack of arbitrariness. Would you accept that in general for the future?

**Mr Coaker:** Well, not totally, I would not. What I would say is that it is perfectly reasonable as well, if you look at it the other way round, for a police officer to have the power to say to somebody, "You are not coming through", because they believe that if they let that person through, rather than be an innocent person, where we would want that person to be able to go through—

**Q221 Dr Harris:** That is on a case by case basis. I am saying, "No-one is coming through"—and let us assume there is no danger on the other side—"you are here for hours now."

**Mr Coaker:** In terms of specifics, that is part of the review of G20 we are looking at, and in terms of the more general sorts of point that have been made, I think I have been clear in saying that, alongside any policy of containment, there are other issues which need to be considered as well.

**Q222 Lord Dubs:** Can we move to the identification of police officers. DCC Sim pointed out in oral evidence there is no requirement on police constables and sergeants to display their identification numbers. Do you think that they should be required to display identification numbers, not simply as a matter of good practice but that there should be an obligation on them?

**Mr Coaker:** I am not sure it should be made a legal requirement, but it should be the absolute expectation that those who are required to wear numbers, namely constables and sergeants, should do so. The Commissioner was very strong about that, and all I can say, I suppose, is if, in the light of what the Commissioner has said and what other chief police officers have said, it is not the case that that numbers are displayed in all circumstances, then maybe we will have to look at what we do, but I certainly would not go straight to a legislative solution, no.

**Q223 Lord Dubs:** There was quite a lot of evidence in relation to the G20 protests that identification was not on display. That is why we were concerned about it.

**Mr Coaker:** All I can say is that I have seen those reports, I have seen also what the Commissioner has had to say and what other senior officers have had to say that numbers should be worn.

**Q224 Chairman:** The problem is that G20 was not a one-off. Every time there is a problem at a demonstration it turns out that some of the officers had their numbers obscured. When we had the problems with the pro fox hunters in Parliament Square it arose then, it goes right back to the days of the Blair Peach case in Southall 20 years ago, or thereabouts, it continually reappears. Whether it is the SPG or the TSG, or whatever it happens to be called at the time, it is a continual problem that occurs time and again, and it may be a disciplinary offence under the police regulations internally, but surely the time has now come, because it is a continuing problem, to say it is a legal requirement in statute that police officers should wear their numbers at all times.

**Mr Coaker:** As I say, the vast majority of police officers do, they conform to the requirement. As you have said yourself, Chairman, it is a disciplinary offence. No doubt the HMIC review will also take a view of it.

**Q225 Chairman:** Why do you think police officers might want to obscure their numbers, particularly when it turns out that some of the ones that we see causing the problems are those very officers who have their numbers obscured?

**Mr Coaker:** As I say, it is a small number that do.

**Q226 Chairman:** I agree it is a small number, but the fact remains it is happening.

**Mr Coaker:** You have to ask yourself, if you have got a very, very small number of officers who are determined to obscure their number, even if it is a legislative framework, whether it would make much difference to them.

**Q227 Chairman:** If they knew it was a criminal offence to do it, it might actually have rather more force.

**Mr Coaker:** As I say, I think the better way is to say that we expect police officers to display their numbers and we will carry on pursuing that in the way that we are.

**Q228 Earl of Onslow:** If they are not displaying numbers properly, is the discipline being enforced?

**Mr Coaker:** I am sure it would be.

**Q229 Earl of Onslow:** It obviously is not, because people are being filmed not showing their number, rank and name. I was brought up as a child that the whole point about the British police was that you could always identify them by their numbers.

**Mr Coaker:** The Commissioner has made it clear that he will investigate where there is evidence of people not displaying numbers.

**Dr Harris:** If it were a criminal offence, if there were cases of the police committing criminal offences, it might lead you to describe the policing as not a success. I do not know what happens.

**Chairman:** I think that is a rhetorical question.

**Q230 Lord Dubs:** Can I move on to the question of photography. You will be familiar with the background and the *Woods* case, but what steps does the Home Office intend to take to comply with the Court of Appeal's recent decision that the taking and retention of photographs of a peaceful campaigner by the police breached his right to respect for private life? Does that mean, if you agree with that, that the police should now be required to delete all photographs that they have of peaceful protesters?

**Mr Coaker:** I am not a legal expert. All I can say is that one would expect the police to comply with the legal judgment, but I have to tell you, Lord Dubs, I know what the judgment is, and it was about the retention of the images, et cetera. What that actually means legally for police, whether it means in every single circumstance they have to delete that, I do not know. What I can say is, of course, the police will be expected to comply with the ruling of the court.

**Q231 Earl of Onslow:** They are expected to comply with wearing numbers as well. What I think one is upset about is there seem to be quite a lot of things where you as a minister are saying that they are expected to do this, they are expected to do that and they are expected to do the third thing and you are actually coming across evidence of a lack of following up of this expectation. What is being done by the Home Office, as a matter of policy, not as a matter of policing, to make sure that the things which you expect them to do they are doing?

**Mr Coaker:** This is a recent judgment and, as I say, you would expect the police to conform to that particular judgment. I hear what you are saying, Lord Onslow, about the specific issues that have emerged from the Committee, and there are particular issues and difficult issues that have emerged, but I do not want us to portray that as the reality of the totality of policing in the country. There are one or two real issues. The vast majority of public protests are policed well and go well to the satisfaction of both the police, the local community and those who protest, and that is the only point that I am making.

**Q232 Chairman:** Presumably, then, the guidance on kettling will include not taking photographs of the individuals inside the kettles as a condition of releasing them?

**Mr Coaker:** I am sorry?

**Q233 Chairman:** One of the things that was happening in relation to the kettling was that when people were being released from kettle they were having their photographs taken as a matter of course. Presumably that instruction will be changed as part of the guidance.

**Mr Coaker:** Certainly, as I have said, the guidance we will ask ACPO to share with you and no doubt you will be able to comment on that at that time as well.

**Mr Papaleontiou:** I do not think the judgment prohibits the taking of photographs of protesters, it puts certain demands on the police service in terms

of the retention of those photographs if it is subsequently shown that that protester was not involved in any disorder at that particular demonstration.

**Q234 Lord Dubs:** Minister, can I go to journalists and the press. Like so much of the evidence in this sort of inquiry, it depends on who you are talking to what is alleged to be the fact. Climate Camp tell us in their written evidence of increasing concern that the police were talking up potential violence in their press briefings. Mr Lewis from the *Guardian* said the Met's "sophisticated press team" ramped up the potential for violence and disruption, and Assistant Commissioner Allison, of course, denied that and blamed the media for distorting the comments made by the police. To what extent do you think the police or the press talked up the prospects of violence and disorder in advance of G20?

**Mr Coaker:** I thought this was a most interesting discussion, actually, that you had with Mr Allison. I looked particularly carefully at this bit. I think it does demonstrate the importance of context when people say things. We are all politicians; we have all said things that if you put it in one way would mean one thing, if you put it in another would mean completely the opposite. We have all had experience of that. If I could repeat the evidence that Assistant Commissioner Allison gave, and I give two examples, one is the position of the police being "up for it", and that was taken from when Commander Simon O'Brien had said, "We are up for the operation in all of its complexities. We are up to the operation in that we will deal with marches and we will deal with security of significant amounts of foreign leaders", et cetera. Without the second bit of the sentence, that has a completely different meaning, and all I am saying is that that is really important. I am not blaming anyone, I am just saying that is important. There was the other one, Chairman, that you will remember, where there was reporting that the police had been talking about storming, but actually, when the transcripts were checked, there was no use of the word "storm" at all. I think there is a responsibility on the police, the media and the protesters to be responsible in how they report these matters. I do not think it is a case of blaming. I do not think the majority of people go out with the intention either as media people, journalists, or protesters, or, indeed, the police or others, to deliberately stoke things up, but I do think people have to be aware that sometimes a word out of place can cause an awful lot of problems.

**Q235 Lord Bowness:** Can I go to section 76 of the Counter Terrorism Act 2008 and our report and the concern that we expressed in that report that it could be used to criminalise the taking or publishing of a photograph of a policeman? Again, we have received evidence from journalists being assaulted and being ordered to leave an area by the police and of photography being banned under these powers. Do you think this reflects mistakes by individuals under pressure, or do you think it is a deliberate disregard for the rights of the media by the police?

**Mr Coaker:** It is certainly the case that you can take pictures of police officers; you can take pictures of uniformed personnel; there is nothing in the law that prevents people from doing that. Frankly, to be honest about it, you see it every day outside Parliament: people stood next to police officers posing for photographs. So there is nothing in law that says that. However, you will know, as I will, that there are occasions when people are prevented from taking photographs in a way which you think, "Why are they being prevented from taking a photograph in this way?" We know the intent of the legislation was the taking of photographs of military personnel or police officers in a way which was about trying to prepare for terrorist acts. That is what the legislation was put in place for, not for the routine prevention of the taking of photographs, and that certainly is not what should be happening.

**Lord Bowness:** Chairman, we are told that the Home Office department is drafting a circular to all police forces on the scope of this section.

**Mr Coaker:** Yes

**Q236 Lord Bowness:** Would it be possible for us to see a version of the draft so that we can comment on it before publication? I do think it is very important how that is drafted, because you have just told the Committee what was the intention of the law.

**Mr Coaker:** Yes.

**Q237 Lord Bowness:** I am afraid we are constantly passing laws with an intention that turns out to be used in a totally different way. Ask the Prime Minister of Iceland whether he likes his companies' assets being frozen under the Counter Terrorism Act. I do not think when we passed that that was our intention. So I think it is quite important, if we can, that we have an opportunity to look at the draft.

**Mr Coaker:** The answer to that is, yes, we will share that. Let me just make a more general commitment. Where it is Home Office circular material, where we own it, I am perfectly happy, Chairman, to share that with the Committee, in a general sense, not just with relation to this. I cannot do that, obviously, where it is ACPO guidelines, but we will do that, yes, of course.

**Chairman:** Thank you.

**Q238 Earl of Onslow:** The Committee recommended that the Government should develop a quick cost-free system for resolving complaints and disputes in advance of protests taking place. We went both to France and to Spain, and certainly the Spaniards, if I can recall, claimed they had quite a good method of making sure that it was possible to carry on without people having their heads bashed in, especially after their recollection that we were the Franco police. Do you agree in principle with our recommendations that there should be a system for resolving complaints and disputes in advance of protests taking place?

**Mr Coaker:** HMIC, again, are looking at this. I think it is worth looking at. I do not think that a fully fledged Parades Commission is something that would be appropriate, but certainly thinking about

whether there is some sort of mechanism that would be useful, I think, is an idea that has got some merit. As I say, HMIC will look at that. What that would be, how that would work, I do not know.

**Q239 Earl of Onslow:** I have been on a couple of demos, one of them was about hunting and one was about a local authority issue. The big Countryside Alliance march, whenever it was, went ahead absolutely beautifully, no problem whatsoever. The anti-war march, with many more people, went ahead, obviously, with police co-operation and went very well. It looks as if, partly, I suspect, as a result of the G20 policing, that the Tamil performance in Parliament Square did not get totally out of hand and there were not get any great complaints about it. In other words, I am quoting those as successes. I think what one is looking at is where things have gone wrong and how we could put them right and how we can make sure there are more successful demonstrations, rather than people bashing each other about, and kettling, and getting cross, and falling down deal and all those sort of things which we do not like.

**Mr Coaker:** You mentioned the local authority. Whether there is a role for the local authority, I do not know.

**Q240 Earl of Onslow:** No, this was just a local authority demonstration.

**Mr Coaker:** I am sorry.

**Q241 Earl of Onslow:** They wanted to build themselves a palace and I did not want them to, and they did not.

**Mr Coaker:** At the end of the day, whatever system you put in place, the fundamental point is the success or otherwise of the communication that takes place between the police and those who would wish to demonstrate or protest. Again, I make the point that on the vast majority of occasions actually these things are resolved and do not need any sort of external reference body to go to in order to sort it out.

**Q242 Chairman:** But an external body could have had a mediating role, for example, in the problems with the Climate Camp people not being able to make contact with the police and then not having a meeting of minds when they did eventually get to meet far too late in the day. There could be an arbitration system where in fact a body could approach both sides and say, "What are your views about this?", and try and broker that confidence building that we need, a sort of ACAS for demonstrations.

**Mr Coaker:** I would not entirely dismiss the idea, but it is something that does need to be looked at. Ultimately, they did talk in the end, even though it was difficult. The climate Camp and the police did get together.

**Q243 Lord Dubs:** Can we turn to protests around Parliament. I think you and other ministers had a meeting with Mr Speaker. Is there now a consensus about how to manage protests around Parliament?

**Mr Coaker:** There is a consensus in the sense that the SOCAP provisions will be abolished. The Constitutional Renewal Bill will bring forward proposals to deal with that, and we agree with the Committee that the only thing that really makes this particularly different is the need to ensure access to Parliament. As I say, we are looking now to see how we do that: what power we need to give to the police in order to ensure that access to Parliament can be maintained.

**Q244 Lord Dubs:** You are saying it will be in the Constitutional Renewal Bill.

**Mr Coaker:** Which is due soon.

**Q245 Lord Dubs:** Which is due soon.

**Mr Coaker:** That is absolutely the case, but I could not be any more specific than that.

**Q246 Lord Dubs:** The point is this Committee initiated some amendments during the Commons stages of the Policing and Crime Bill but they were not reached. What you are saying is we are now talking about not having them in that Bill when it gets to the Lords but having them in the new Bill.

**Mr Coaker:** I do not think the Committee will be desperately disappointed with much of what has come forward, and, of course, it will be discussed in both Houses in due course when this Bill does actually arrive.

**Q247 Earl of Onslow:** It is likely that we will have the Constitutional Renewal Bill at the tag end of a Parliament. It is not going to come in this session. The idea of it becoming law between November, when, perfectly reasonably—turkeys not voting for Christmas and all that—you go to the country on the last possible day of the Quinquennial Act, is farcical, is it not, with greatest of respect?

**Mr Coaker:** With the greatest of respect, it is an MoJ bill.

**Chairman:** Nothing to do with you! I think you may find that their Lordships who are members of this Committee may table amendments similar to those in the Commons when your Bill reaches the Lords, so we might be ready for that.

**Q248 Lord Dubs:** There would be an advantage, then, in the Government acceding to those amendments on the Policing Bill rather than waiting for the Constitutional Renewal Bill—not that you are going to comment on that.

**Mr Coaker:** As I say, the Government's position is that we are bringing forward these changes in the Constitutional Renewal Bill and, if amendments are made, we will obviously have to decide what to do at that time.

**Q249 Lord Dubs:** Could I turn specifically to the Tamil protests which have been going on now for a long time, Is that an example of how the

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Government would like to see protests around Parliament managed, despite the concerns expressed by Mr Speaker and others about the disruption that has been caused? In other words, are there lessons we have learned from the Tamil protests which indicate the way forward?

**Mr Coaker:** I think that this has been a very good policing operation, and it has been difficult, the difficulty being the ebb and flow of the numbers of people who come and protest and the police being able to get the requisite number of people there. I have to say to you, in response really to what Mr Harris was saying, that I have also had people saying, "Why aren't the police doing more to sort it out?" I have had criticism from the other point of view, in the sense that this Committee and others like me who agree by and large with what this Committee says, although I know sometimes it does not feel like it, turn round and say that actually that is a good way of policing that demonstration outside. There are those who think the police are being too soft, the fact that it is aesthetically not pleasing, the fact that they cannot automatically get into the entrance to Parliament that they have got into before, that they have been allowed to sit in the road for three or four hours, or whatever, before the police have had the numbers of officers there able to do anything about it. Those things have been used and I have been stopped, saying, "Why as a minister are you not telling the police to get this sorted out?" All that I have turned round and said is that actually I think the police are doing a very good job in policing that demonstration, facilitating protest, ensuring that there is access to Parliament and maintaining, as far as possible, public order. I personally do not believe the fact that something does not look nice is a reason that you should stop a protest.

**Q250 Dr Harris:** I am sorry to come back to this, but if you consider the policing of the G20 protests in general to be a success, what are your criteria for failure?

**Mr Coaker:** It is a difficult question to answer. We all make particular judgments; we all have views about things. Mr Harris, you have views yourself about what you think is successful, what you think is a failure. These are overall comments that people make, and I do not want in any way to underestimate the nature of some of the issues that arose from it and have arisen from it.

**Lord Bowness:** Chairman, I am going to be pretty balanced. Had the G20 demonstrations degenerated into what happened during the Poll Tax riots in Trafalgar Square, that could legitimately be described as something which was a failure, could it not, as opposed to a success. So, I am afraid, I am somewhat disagreeing with my colleague.

**Dr Harris:** My colleague has answered my question for you.

**Q251 Lord Bowness:** I think you are fair to claim it as a success when you compare it with what it could have been.

**Mr Coaker:** I am trying to be non-confrontational about these things and just be open about it. As you say, you can look at other demonstrations and think that was not a success. That is the key point that I make, that whatever the difficulties there have been around public order, the vast majority of demonstrations and public order situations in this country occur in a way which is satisfactory both to the police and to the protester.

**Q252 Dr Harris:** Turning to our first report that you have now replied to, I want to talk to you about section five of the Public Order Act. You will be aware that we have some concerns about the use of section five of the Public Order Act which we put in our report, particularly the fact that there is this reference to insulting, where insulting as stand-alone behaviour can be a criminal offence or at least can give rise, on the basis of offence taken from something that is not necessarily meant to be an insult, to complaint, police investigations, arrests, potentially prosecutions, and we suggested that you could narrow the offence in the name of free speech by taking out specifically "insulting" and that you could get away, therefore, from all these complaints from Christians who say they keep getting had up by the police for saying anti-gay things and, indeed, the gay horse which we have discussed, to the amusement of the Earl of Onslow, previously. Your response said that you are considering carefully these concerns and you are raising them with ACPO and the Ministry of Justice. When I asked the Ministry of Justice, they said it was a Home Office matter. That does not mean you did not talk to them, but you say there are issues. For example, you say your only objection so far is the implication that the amendment is potentially far-reaching for the policing of low level disorder on the streets and for the racially and religiously aggravated section five offences. Could you expand on that a little?

**Mr Coaker:** With respect to you, we are trying to be helpful to the Committee with respect to this. We have said that we understand the point that the Committee is making, that section five is a broad offence, that you have got "abusive, threatening" and then you add the word "insulting": it is quite a broad offence. Quite rightly, in some situations it is the fact that it is used just from the insulting point of view that people have concerns about. All we have said is that we will look at that, we will take on board what the Committee has said and we will talk to our colleagues to see whether there is, in their view, a real problem about it. What we have also said, however, is that as well as the point that you make, Mr Harris, with respect to big demonstrations and some of the other points that you make, we do also get police officers saying, with respect to lower level offences, that section five is often used with respect to kids on the street; it is actually a useful offence to have and we need to balance that up.

**Q253 Dr Harris:** My question was not meant to be aggressive.

**Mr Coaker:** No.

**Q254 Dr Harris:** Because I do recognise the positive response, and I read it out, but I just want you to expand a little bit on two things: why the police cannot police low level disorder, particularly from youths, on the basis of threatening and abusive behaviour rather than having to have the insulting? Police always want to have a wide offence. Even if we were police, we would want a wide offence. It is the job of Parliament not to challenge that and say, no, we are going to restrict it for other reasons, like free speech. Secondly, could you expand, if you can, on why you think there is a problem with the racially, religiously aggravated section five offences, because “the implications of the amendment would be far reaching in respect of those”, is what your wording was? There are two questions.

**Mr Coaker:** In terms of abusive and threatening, they are obviously, it seems to me, from what the police tell me, higher level offences than insulting, so insulting does give them a further tool in the box to use with respect to low level offences.

**Q255 Chairman:** Why should it be criminalised? If somebody knocks a policeman’s hat off, that is one thing. If he tells a policeman to F-off, why should he be arrested for that? That is abusive.

**Mr Coaker:** It is insulting.

**Q256 Dr Harris:** I am talking about somebody sensitive saying, “I find that behaviour insulting and it has led me to feel that I am somehow caused distress and alarm.” I am not talking about the police being abused or anything like that. I gave you an example: the demonstration for free speech in Trafalgar Square, which I was at, where someone was arrested for wearing a t-shirt with a cartoon of the prophet Mohammed, which is not in itself unlawful. Someone complained—it is not abusive, is it, it is not threatening—that they were insulted by that and they felt distressed and alarmed because of it, and the police told me (and you confirmed it) that they had to act because *prima facie* there was an insult, someone was caused distress and alarm. That means that religious freedom of speech is going to be severely curtailed where complaints like that are made. That is the example.

**Mr Coaker:** It is a reasonable example to give, but, without being rude, we saw with the examples in the Committee you start to have debate in the Committee about when does insulting become abusive? To an extent you dance on the head of a pin in terms of semantics. What I have said to you and to the Committee is it is something we will look at. In terms of racially and religiously aggravating, we are worried about insulting people with respect to that particular aspect of life, and that is something we need to look at. It may be that we should change the law, it may be that we should amend the law, and we have accepted that and we have accepted that because of some of the points that this Committee has raised. All I have said is that we need to discuss

with the police, with the Ministry of Justice, with other colleagues, whether we should do it and how we go about it if we do.

**Earl of Onslow:** There was case in Norwich where somebody got arrested for going around in a T-shirt saying, “Bollocks to Blair”. Gordon Brown had been going around saying that for the whole of Blair’s premiership. Surely you should not arrest people for that sort of thing because that is insulting?

**Q257 Chairman:** I do not think you need to answer that one. When are we going to hear back from you on it?

**Mr Coaker:** Again, I cannot give you a timescale, but in a reasonable amount of time, Chairman.

**Q258 Chairman:** By the end of the summer?

**Mr Papaleontiou:** We will consult over the summer with colleagues from ACPO and the Ministry of Justice.

**Mr Coaker:** October.

**Chairman:** We will hear from you in October. Fine.

**Q259 Lord Bowness:** Minister, in another forum you suggested the Government should consider the question of quasi public spaces to ensure the rights of protesters are observed, because we have seen an ever increasing amount of privatisation of spaces that have originally been public, and you were going to consult with local authorities and other organisations about protecting that right and that whole issue, such as privatised shopping centres. Can you tell us where you are with that? Are you going to proceed?

**Mr Coaker:** We are going to proceed with that. I am not totally sure where we have got to with it, but we are proceeding with that and, again, we will report back to the Committee on that. There is an issue about private space, as you say, about protest in private space, et cetera and we need to look at that and understand it more. Liberty have raised it not only with you but with a number of people. We will look at that, at what we should do about it, and, again, it is something we can report back to the Committee on.

**Q260 Chairman:** In October?

**Mr Coaker:** We will give a progress report.

**Mr Papaleontiou:** Again, some time in the summer.

**Q261 Chairman:** So we are looking at October then?

**Mr Coaker:** We will give a progress report, Chairman, even if we have not reached an outcome.

**Q262 Chairman:** Can I go on to the question of civil injunctions and see what you have to say about that. Do you agree in principle that applications for civil injunctions against protesters should be made with notice and normally heard in public?

**Mr Coaker:** I would not necessarily accept that, Chairman. Often, even when these injunctions are being used for protests rather than necessarily for harassment that you would expect in the usual circumstances, it can be something where somebody is being intimidating, where somebody has been



threatening or abusive, and to be able to hold those in private is, I think, something which is important and is an effective way of dealing with the process.

**Q263 Chairman:** Is this not another example of the law being made for one thing and spreading out into something else? This law was originally intended to deal with stalking?

**Mr Coaker:** Yes.

**Q264 Chairman:** Now we have got it being used for public order law, like the counter-terrorism power which was originally intended for terrorism and is now being extended to other areas. This is mission creep, and surely what we have to try and do is to draw a line around this and say that this is an exceptional form of control, to try and use civil injunctions with all the risks of contempt of court, imprisonment and all the rest of it, for what may be a relatively trivial breach of an injunction. Surely in these circumstances we need to have some transparency about the whole process, and unless it is an emergency, and generally speaking these are not emergencies, why should it not be made on notice?

**Mr Coaker:** As I say, we think that it is often the case where laws are framed for one thing and used for something else. I believe that injunctions have been used with respect to animal rights protesters. Those people are nasty and they have been people where the use of those injunctions has been extremely successful and helpful.

**Q265 Chairman:** Of course the injunctions are successful, because if they are not on notice *ex parte*, they can have very wide-ranging powers and you have to go through the whole application process to have the powers reduced. I remember when I was practising law in the 1980s one of the good things the Labour Government did in the 1970s when Labour came in was to say that labour injunctions to try and stop a strike should be made on notice in public. We stopped *ex parte* injunctions being made in those circumstances to make sure the union's point of view was heard: a very similar scenario, a strike is a protest, to what we are dealing with now. Why, when we have labour injunctions which we require to be on notice and properly debated in public, do we not expect the same in relation to ordinary protests? Of course there may be exceptions where there is a real risk to somebody's personal safety as an emergency, but they are generally speaking going to be the exception not the rule. Why should not the basic rule be to have some transparency about this? Let us have the injunction in public, on notice, so that the people who are being made the subject of the injunction can put their point of view to the judge and have a fair hearing before they have restrictions placed on them which they may not know about, and they can even be put in prison?

**Mr Coaker:** As I say, Chairman, I cannot find it, but I think we said that if there is a lot of evidence brought forward, and we know the Radley Lakes campaign, I think it was, put some evidence to the Committee about the use of these injunctions, but my understanding is that we have not had this raised

as a particular issue with us, apart from through your Committee and through Radley Lakes. It is something we can always consider, but we have always felt that it is an appropriate and proportionate way of dealing with protests in these particular circumstances.

**Q266 Chairman:** Last month I heard a programme on Radio 4, a very good programme actually, which went into this in some detail, giving examples of ordinary law abiding people who wanted to make a point of view suddenly finding themselves subject to the most draconian controls. One chap was a retired professor. He had walked round Radley Lakes day in day out for most of his life and suddenly found he was banned from going anywhere near it.

**Mr Coaker:** As I say, Chairman, I cannot find it, but I am sure in the documentation we have said in response to the Committee that if further evidence is brought forward, and you have just given another example with respect to the Radio 4 programme, then it is something that we can discuss with colleagues, but my understanding is that far from this being something which people have raised with us as a problem, they have actually been raising it with us and have said, "This is actually something you ought to consider using because that individual is harassing us."

**Q267 Chairman:** That is not the issue. The issue I am putting to you is making sure the person on the receiving end has a fair crack of the whip when it comes to court. That is not to say you cannot use injunctions, but we have had a good deal of mission creep here and there are plenty of other powers available. This is effectively the protestee making an application—not the police, the protestee—and in those circumstances there is no public control. It is not a decision made by the council, or by the Government, or by the police, it is somebody on the receiving end of the protest making an application. That is the difference.

**Mr Coaker:** We did try to respond, again, positively, "While the Government would not wish to dispute the evidence submitted, we are not convinced of the need to amend the Civil Procedure Rules in the absence of further evidence of a problem in this area." Then in brackets, "(The Government would be happy to look at this if further evidence of a problem were provided.)"

**Q268 Chairman:** Can I suggest you get a transcript of the Radio 4 programme, for a start—it was about half an hour—and have a look at that?

**Mr Coaker:** We can do, of course.

**Q269 Earl of Onslow:** Minister, we are back on mission creep again I am afraid. The Government reply to the Committee's report categorically states that counter-terrorism powers should only be used for counter-terrorism purposes. The Committee has example after example after example of some powers being used. The Climate Camp Legal Team gave us an example of section 44 of the Terrorism Act 2000 being used to search protesters in a café who were

discussing food supplies to the camp. Do you accept that this is one of the many examples of terrorism powers having been misused, often in contravention of people's human rights? There is too much of this mission creep going on and too much abuse of the liberty of the subject by this Government. I say this very strongly. The point of government is so that I can insult you and you can insult me and we can walk without hindrance, not to boss people about the whole time.

**Mr Coaker:** Did you say section 44?

**Q270 Earl of Onslow:** That is what I am reading from my brief, yes.

**Mr Coaker:** First of all, let me say again that CT legislation, CT powers, should not be used in an ordinary public order sense. I have said that categorically and I say it again. In terms of section 44, the stop and search without suspicion power, that is a necessary power in certain situations, and we would all agree with that. However, is it the case that we now perhaps need to review how often it is used? I think the answer to that is yes. As one example, the Commissioner in London is currently looking at a pilot to review the use of section 44 in a certain number of boroughs, and in those particular boroughs section 44 will only be used at iconic or important sites. At the moment, of course, section 44 applies much more widely in London, and he is going to look at that and see what that does in terms of maintaining the security of the country whilst also not using CT powers. I think that is an important step forward and is actually something we should be doing more widely and in more situations across the country.

**Q271 Earl of Onslow:** How do we stop this abuse? To me it is actually an abuse of power to search protesters in a café, who are ordering food, using counter-terrorism powers.

**Mr Coaker:** They should not be doing that. How do you stop it? It is already stopping in the sense that the Commissioner of the Metropolitan Police has already put in place a pilot which is about trying to see how they can reduce the use of section 44.

**Q272 Earl of Onslow:** Why do you need a pilot? You do not use counter-terrorism powers unless you have reasonable suspicion that it is to do with terrorism. It is not to do with parking on double yellow lines, or rubbish bins, or some of those things it has been used for.

**Mr Coaker:** That is what I am saying, the tanker is turning, and I agree with the point you are making that CT legislation, CT powers should not be used in an ordinary public order sense.

**Q273 Earl of Onslow:** Right. Did Mr Straw's recent speech on "going through counter-terrorism legislation and working out whether we need it" represent the Home Office's view? If so, can you tell us about this review and when you will report its outcome to Parliament?

**Mr Coaker:** We keep all legislation under review and much of the CT legislation we have is actually, some of it, 28 days and other such pieces, control orders, subject to annual review.

**Q274 Chairman:** What we are saying here is when we say "under review" that is the general response, 28 days under review. That does not mean to say there is anything particularly active going on. What we want to know is whether there is an active review of the whole gamut of powers to decide whether in fact some of these are no longer required or have not necessarily ever been used.

**Mr Coaker:** I do not think it would be fair to say it was an active review, Chairman, but we always keep these things under review.

**Q275 Earl of Onslow:** Why can you not just say, if it is Home Office policy, and you admitted to me earlier on you are responsible for policy, no police force should use counter-terrorism powers except in the case of terrorism or suspected terrorism?

**Mr Coaker:** As I say, there is new guidance coming out about that. I have said that categorically time and time again, and it is something that I do not wish to see either. I agree with you, it is something that should not happen.

**Q276 Chairman:** So we are going to have some guidance on it.

**Mr Coaker:** There is some new guidance, unless I am going to be corrected.

**Q277 Earl of Onslow:** When?

**Mr Papaleontiou:** Guidance for section 44 was issued in October 2008, which is very clear, saying that CT powers should only be used in relation to counter-terrorism.

**Q278 Chairman:** Since October 2008 we have examples where it has been used inappropriately. Are we going to have some new guidance?

**Mr Coaker:** No, what we will get is the continued exhortation to use it appropriately, and the point I am making, in response to what the Earl of Onslow was saying, is that that is having some impact because we have seen the changes that the Commissioner in London is making in a very welcome way.

**Q279 Chairman:** When Jack Straw was saying in his speech they were going through counter-terrorism legislation working out whether they needed it, that is not actually happening.

**Mr Coaker:** It is not something that we are actively doing in the Home Office, although, as I say, we do keep these things under review.

**Q280 Chairman:** So that was not right at all when he said it?

**Mr Coaker:** No, I think it is something that obviously Mr Straw is doing and may be doing. I am just saying that at the moment we are not undertaking an active review ourselves.

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**Q281 Chairman:** So you are not even in discussion with the MoJ about it?

**Mr Coaker:** We certainly will be and talking to Mr Straw about it.

**Q282 Chairman:** Because it does seem rather peculiar, the Secretary of State for Justice saying we are going to have this review, we are working through the legislation to work out what is needed and what is not and the Home Office saying, no, they are not.

**Mr Coaker:** What I have said is that we keep it under review. What Mr Straw is trying to do is to promote a more active review.

**Q283 Chairman:** He is trying to promote a review rather than a review actually happening.

**Mr Coaker:** I think what he is trying to do is to actually encourage an active review, and if it says there is something that we should be doing, we will need to talk to him about that.

**Q284 Earl of Onslow:** You said the “new” guidelines.

**Mr Coaker:** We keep our legislation under review. There is not at the present time an active review, but we will be talking to Mr Straw later.

**Q285 Chairman:** Are you suggesting that he got it wrong in his speech?

**Mr Coaker:** I have not read all of the speech.

**Q286 Chairman:** What he said was, “There is case for going through all counter-terrorism legislation and working out whether we need it. It was there for a temporary period”, in a speech at Clifford Chance, 13 May, reported in *The Guardian*.

**Mr Coaker:** I think the important words were “there is a case for it”.

**Q287 Chairman:** Do you agree there a case for it?

**Mr Coaker:** I think there is always a case to consider, yes.

**Q288 Earl of Onslow:** Can we go back to the regulatory review which came out in October 2008? Mr Papaleontiou said that there was new guidance on section 44 that came out at the back end of 2008. This incident with the Climate Camp team, it appears, took place after the guidance came out. So either the guidance, which I accept I have not read, said, “Do not do it”, and it is being ignored, or they did not say, “Do not do it”, and they are continuing according to the old guidance. Which is it?

**Mr Coaker:** I think there is an issue between guidance that is put out at the centre and ensuring that it always happens in exactly the way you would want at the front line. Indeed, I cannot remember

whether it was Commander Broadhurst or one of the other senior police officers (it goes back to Mr Sharma’s point) was talking about the importance of training, the importance of ensuring that people know exactly what is the appropriate use of the power.

**Q289 Earl of Onslow:** You seem to be saying there is guidance that everybody can talk about.

**Mr Coaker:** No, I am not saying that at all. What I am saying is that guidance is important, the way that the law is used, but what we also need to do is to recognise that guidance needs to be put into practice on the front line, and that requires training, that requires leadership and that requires support.

**Q290 Earl of Onslow:** But buying sausages in a café does not appear to be, on the face of it, a terrorist activity. Nobody was a suspected terrorist; they just got bored by what the Climate Camp people wanted to do. So from their point of view they used the Terrorism Act to do it and, as I understand it (and I may be wrong), your new guidance says that was not supposed to be done. Is that right? You know more about the guidance than I do.

**Mr Papaleontiou:** The guidance states that counter-terrorism legislation should only be used for counter-terrorism purposes. What I think we are not saying is that counter-terrorism legislation should never be used in a public order scenario, but clearly there could be a counter-terrorist context to a public order scenario.

**Q291 Chairman:** It is not even a public order scenario, people eating in a café, unless they are throwing the cups and saucers about!

**Mr Papaleontiou:** No, exactly. I am sorry, I am afraid I do not know about the details of this particular case, but the guidance is pretty clear.

**Q292 Chairman:** I think we have reached the end of the line with this conversation. I think that has exhausted our questions for you today. Thank you for coming.

**Mr Coaker:** Thank you very much, as always.

**Q293 Chairman:** Is there anything you want to add before we close the session?

**Mr Coaker:** No, only to repeat what I said at the beginning that the deliberations of this Committee, in terms of the human rights approach to all of these matters, is extremely important: there should not be tension between effective policing and respect for human rights. I think that is what the police themselves believe and in the vast majority of instances I think that is what we manage to achieve.

**Chairman:** Thank you very much.

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# Written evidence

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## Letter to Chairman from Vernon Coaker MP, Minister of State, Home Office

### DEMONSTRATING RESPECT FOR RIGHTS? A HUMAN RIGHTS APPROACH TO POLICING PROTEST

I wanted to provide you with an early response to the Report “*Demonstrating Respect for Rights? A human rights approach to policing protest*” by the Joint Committee on Human Rights (JCHR) published on 23 March.

The Government welcomes JCHR’s report on what is a very important and sensitive area as recent concerns expressed about the policing of G20 protests illustrate.

As stressed in both the Home Office written memorandum and my oral evidence to the Committee, the Government is committed to protecting and facilitating the right to peaceful protest. We are in the process of carefully considering all the Committee’s recommendations and we will provide you with a comprehensive response to all of the recommendations and conclusions in the Report by 23 May. In the interim, and given the considerable public interest at present, I hope that you find the following initial responses satisfactory.

The Government is clear that counter-terrorism powers should only be used for counter-terrorism purposes and this will be clearly set out in the later formal response. We also remain committed to repeal of sections 132–138 of Serious Organised Crime and Police Act 2005 governing protest around Parliament. We shall bring forward repeal of those provisions in the Constitutional Renewal Bill as soon as Parliamentary time allows.

The Government agrees with the Committee that the police and protest groups need to focus on improving dialogue so that there are no surprises during protests. The full response will include further detail on how we will take this recommendation forward with a full range of partners.

We also agree with the Committee that Taser should not be used against peaceful protestors and I hope that you will agree that both the police and I were very clear on this matter in our oral evidence. The Written Ministerial Statement on the extension of Taser on 24 November 2008 also set out that all Taser deployments would continue to be monitored by independent medical advisors and that we would continue to publish Taser usage figures on a regular basis.

Finally, the Committee recommended that Section 5 of the Public Order Act should be amended to remove reference to insulting words or behaviour. We hope that you will appreciate that further consultation is required with a range of stakeholders given the potentially wide implications of such a change to the law.

In addition, I think it is timely to alert you to some key areas of work that directly relate to some of the Committee’s recommendations and conclusions. You will have seen that the Commissioner has invited HMIC to review the police tactics involved in policing G20. This is consistent with the police’s commitment to continually review and examine their tactics and operations to ensure they can continue to meet the difficult challenge of balancing people’s rights to peaceful protest while keeping the peace and maintaining public safety. A similar review is taking place with regards to the policing of Kingsnorth Climate Camp. Taken together the reviews show that the police are wedded to recommendation 27 of the Committee’s report that, “lessons (both good and bad) are regularly drawn for the police practice and disseminated broadly.”

The sad death of Mr Tomlinson and the incident where footage calls into question the actions of an individual officer are serious matters which have quite properly been referred to the Independent Police Complaints Commission (IPCC), by the MPS promptly and appropriately. We await the conclusion of those investigations.

While it is right that concerns over police tactics are properly explored, we should not lose sight of the fact that over the course of the G20 and in, for example, the march of Tamils to Hyde Park last weekend, thousands of people were able to demonstrate peacefully on our streets. Criminal activity and wider disruption to London was minimal and in the case of G20, the police also simultaneously maintained the high levels of security needed to protect those attending the Summit.

I hope this letter provides you with a helpful summary of the Government position on some key areas of the Committee’s Report ahead of our full response in May 2009.

I am copying this letter to the Commissioner for the Metropolitan Police Service, HM Chief Inspector of Constabulary, Sir Ken Jones (President of ACPO), ACC Sue Sim (ACPO Public Order Lead) CC Peter Neyroud (Chief Executive of the National Policing Improvement Agency), Nick Hardwick (Chair of the Independent Police Complaints Commission) and Keith Vaz (Chair of the Home Affairs Select Committee).

20 April 2009

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**Letter to Vernon Coaker MP, Minister of State, Home Office**

*Wood v Commissioner of Police for the Metropolis* [2009] EWCA Civ 414

The Court of Appeal gave judgment on 21 May 2009 in the case of Wood. This concerned the taking and retention of photographs of an anti-arms trade campaigner at the AGM of an organiser of trade fairs for the arms industry by the police's Forward Intelligence Team. The Court held, by a majority of two to one, that the taking and retention together of the photographs of Mr Wood, who did not have any previous convictions and who the police could have quickly established had not committed any offences, was disproportionate and breached Article 8 ECHR (the right to respect for private life).

We briefly raised this case with you when you gave evidence to the Committee yesterday as part of our ongoing policing and protest inquiry. We would be grateful for your response to the following questions:

1. What steps does the Home Office intend to take to comply with the Court of Appeal's decision?
2. How will the Home Office ensure compliance by all police forces with the judgment? For example, will it co-ordinate responses by the police or issue guidance?
3. What steps does the Home Office expect the police to take to comply with the judgment and within what time period?
4. In your view, does the judgment require police forces to delete all photographs of peaceful protesters?
5. How does it propose to communicate the effects of the judgment to the public?

I would be grateful for a response by 17 June.

3 June 2009

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**Letter to Chairman from Rt Hon David Hanson MP, Minister of State, Home Office**

You wrote to Vernon Coaker on 3 June, following his appearance on 2 June before the Committee, about the Court of Appeal judgment in the case of *Wood v Commissioner of Police for the Metropolis*. You asked a number of questions about the implications of the judgment and how this Department intends to ensure compliance of the judgment by the police. I should first of all apologise for missing your deadline.

I can assure you that we are considering the implications of the Wood judgment very carefully. This is one of a number of issues raised by the JCHR during its enquiry into policing and protest which we are looking at in consultation with ACPO.

In terms of the implications of the judgment, our understanding is that the Court of Appeal found that the taking and retentions of the photographs in this case was in pursuance of a legitimate aim for the purposes of Article 8(2) ECHR. However the retention of the photographs in this case was not proportionate once it had become clear that the person photographed had not committed any criminal offence on the day in question. Therefore the continuing retention of such photographs 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. Once it becomes clear that such grounds do not exist, the mere possibility that the subject, with no previous criminal record, might commit a public order offence at a future event will generally be insufficient to justify continuing retention. However, each case will have to be judged on its own facts.

It is ultimately a matter for chief officers to decide whether images of individuals taken at public order events are deleted. I understand that the policy of the Metropolitan Police is to review photographs of individuals taken at public order events manually and they will now retain or dispose of photographs in line with the Court of Appeal ruling. Clearly, all forces need to review their policies and procedures on taking and retaining images of individuals in the light of the Court of Appeal ruling.

The Home Office is working with ACPO to ensure that forces are clear about the implications of the judgment and that appropriate and effective guidance is issued on compliance with the judgement. I shall undertake to report back to the Committee in the autumn on steps taken.

I am copying your letter and my reply to Deputy Chief Constable Sue Sim, Chief Constable Peter Neyroud and Rt Hon Michael Wills MP.

30 June 2009

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**Letter to Deputy Chief Constable Sue Sim**

Thank you very much for giving evidence to the Committee on 12 May 2009.

During the evidence session, you agreed to provide us with three additional pieces of information which will be helpful to our ongoing work in this area:

1. The Gold, Silver and Bronze briefings from the G20 protests.

2. ACPO's interpretation of the judgment of the House of Lords in *Austin v Commissioner for the Metropolis* [2009] UKHL 5.
3. Versions of the ACPO public order manual *Keeping the Peace* dealing with containment (both pre and post *Austin*).

As you may be aware, we will be taking evidence from the Minister Vernon Coaker MP on 2 June 2009 and we would therefore be very grateful if you could reply by 28 May 2009.

In addition, as you know, we viewed some short video footage provided to us by the Guardian relating to the protests. We reiterate that we would be happy to view any video material of the protests which the police wish to provide to us.

21 May 2009

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#### **Letter to Chairman from Deputy Chief Constable Sue Sim**

I write in response to your letter dated 21 May 2009 regarding my recent appearance before the Joint Committee on Human Rights.

With regard to your request for the Gold, Silver and Bronze briefing documents can I advise that Assistant Commissioner Chris Allison actually agreed to provide those documents during his evidence (Question No 90) and therefore advise that this request should be directed to Mr Allison.

With regard to the request for ACPO's interpretation of the House of Lords judgement in the *Austin v Commissioner for the Metropolis (2009)* case, I have commissioned specific legal work to enable me to provide a more comprehensive assessment. However, in broad terms I believe that current legal caselaw in relation to the use of the containment tactic does comply with the eight areas contained in the judgement which was alluded to by Dr Harris during the evidence session. That said, I consider that it is appropriate to ensure that specific attention is paid to the judgement and to that end I have asked my new Human Rights Working Group to examine the judgement in detail and provide opinion regarding operational implications.

With regard to the request for copies of the ACPO Public Order Manual "*Keeping the Peace*" both preceding and post the *Austin* case, I have attached electronic copies of the 2000 version of the manual and the current version.

Finally I will submit a DVD with the written copy of this letter; this DVD contains footage from the G20 protests, it also includes footage from the NATO summit in Strasbourg the week after G20 footage from protests in Thailand in 2009 which I am keen for the entire committee membership to view. The purpose of including differing clips is to demonstrate the differences between British public order policing and the style found in Europe and across the world.

If I can be of any further assistance please do not hesitate to contact me.

27 May 2009

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#### **Letter to Deputy Chief Constable Sue Sim**

Thank you for your letter dated 27 May 2009 replying to my letter of 21 May. I am very grateful to you for your timely response.

We have now received the Government's response to the Committee's report, *Demonstrating respect for rights?* (Government Reply, Cm 7633, May 2009). We took evidence from the Minister Vernon Coaker MP on 2 June 2009 and will send you a copy of the uncorrected transcript once it is available. The Government has told us of a number of initiatives that ACPO is taking, many of which we welcome, such as the creation of a Human Rights Working Group within the ACPO Public Order and Public Safety Group. We understand that guidance, for which ACPO may have some responsibility, is being or may be produced on a number of issues including:

1. A redraft of *Keeping the Peace* (see Government Reply, pages 5, 12 and 14).
2. Possible amendments to the guidance on section 44 Terrorism Act 2000 (Government Reply, page 5).
3. Advice and good practice on management of media at public order events/incidents (Government Reply, page 15).

We are pleased to note the Government's indication that ACPO proposes to consult the Committee when redrafting *Keeping the Peace* (Government reply, page 12) and look forward to receiving a post-consultation draft in due course. We would be grateful if you could provide an indication of the timescale you are working to on this redraft.

At our evidence session on 2 June, the Minister agreed generally to provide us with draft copies of any Home Office produced guidance or circulars relating to public order matters, in order that we may comment on them as appropriate in advance of them being finalised. We would be grateful if you would similarly agree to provide us with any other post-consultation drafts of ACPO/NPIA guidance relating to public order and policing of protests before they are finalised, including those mentioned at points 2 and 3 above.

Please could you reply by 17 June 2009 and send a Word version of your reply to [jchr@parliament.uk](mailto:jchr@parliament.uk).

3 June 2009

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#### Letter from DCC Sue Sim

I write in response to your letter dated 3 June 2009 concerning my evidence submissions to the Joint Committee on Human Rights (JCHR). Having reviewed recent evidence from other witnesses who have appeared before JCHR I feel it necessary to provide some additional context.

With regard to the re-write of "*Keeping the Peace*" I would like to clarify that I commissioned this work in early 2008 as part of a wide-ranging review of public order related training. I took this course of action in order to ensure that public order training and policing continued to develop and would be ready for the demands of the Olympics in 2012 and other significant events in 2013 and 2014.

As I have stated in my previous evidence I welcome the positive contribution from the JCHR and have carefully considered all the debate and opinions that have been heard during the evidence sessions. It was as a direct result of my appearance before JCHR last November that I immediately commissioned work to substantially enhance the media guidance provided to commanders and officers, and I am pleased that this work is now nearing completion. It was also at this time that, at my request, the National Policing Improvement Agency (NPIA) approached your own office and invited you to be a consultee on the re-write of "*Keeping the Peace*" I also began scoping work which has led to the formation of a Human Rights sub-group, led by a senior officer from the Police Service of Northern Ireland, which will report directly to myself as the ACPO lead for Public Order and Public Safety.

I feel it is important to point out that all these decisions were taken prior to the G20 policing operation and demonstrates the commitment of ACPO to responding positively to well founded and positive feedback on operational and policy matters.

I would also like to comment on matters appertaining to the *Austin v Commissioner of the Metropolis*, which were debated between JCHR and the Police Minister during his recent evidence session. Direct reference was made to the 2008 version of "*Keeping the Peace*" which I had recently forwarded to you and in particular the comparison of the *Austin* judgement with the guidance on the containment tactic. As you are aware the legal challenges and deliberations in relation to *Austin* have been ongoing since 2001 and were only finally resolved at the House of Lords earlier in 2009. Therefore the 2008 version of "*Keeping the Peace*" pre-dates the final judgement.

That said, I will of course ensure that the *Austin* case is considered in the current re-write of the manuals and have instructed both my Legal sub group and the new Human Rights sub group to review the case law and provide relevant opinion to me. I have also commenced work relating to the *Wood* case which relates to retention of photographs taken by the police of persons connected to protests.

The current re-write of the manuals is scheduled to be complete during the Spring of 2010 and I will of course be in touch with yourself as previously indicated to ensure JCHR have the opportunity to comment on the initial draft.

With regard to guidance relating to Section 44 of the Terrorism Act 2000 I do not envisage that this will fall within my portfolio.

I will however ensure that the guidance relating to working with the media at public order events is forwarded to you for comment.

8 June 2009

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#### Letter to Commissioner Mike Bowron, City of London Police

My Committee has recently reopened its inquiry into Policing and Protest following, amongst other things, the policing of the G20 demonstrations.

We have received written evidence from a number of organisations and individuals. On 12 May, we took oral evidence from Climate Camp, the Guardian, Tom Brake MP, the Independent Police Complaints Commission, DCC Sue Sim (ACPO) and AAC Chris Allison (Metropolitan Police). We will be taking evidence from the Minister Vernon Coaker MP on 2 June.

During our evidence session on 12 May, witnesses raised two particular issues which related to the work of the City of London Police. In order to assist our inquiry, we would be very grateful if you were able to respond to the following two issues:

- A. We were shown video footage of a police inspector refusing to identify himself on request. His only response was that he was from Bishopsgate Police station. We understand from the evidence that we received that inspectors do not wear police numbers, but that they are expected to identify themselves if asked to do so. We have also received reports of more junior officers failing to wear their identification numbers.
1. What guidance was given to City of London police officers at all levels on the day of the G20 protests as to how they should identify themselves? How and by whom was this information provided?
  2. What steps does the City of London Police propose to take in the future to ensure that all officers appropriately identify themselves?
  3. What action, if any, is the City of London Police taking or proposing to take (i) against officers who failed to display their identification numbers and (ii) against commanding officers for failing to ensure that they did so?
- B. We were also shown video footage of a City of London police officer requesting and then ordering journalists (photographers and camera crews) to leave the area for 30 minutes. The officer relied on section 14 Public Order Act 1986. When we asked the Metropolitan Police about this, AAC Allison said that he was not aware of any particular occasions when this happened within G20 and no such order was made from the Metropolitan Police command.
4. Was a decision made to require journalists to leave the area? If so, by who was it made?
  5. What was the purpose of asking them to do so?
  6. In your view, is this a legitimate use of section 14 Public Order Act 1986?
  7. In your view, does this direction conform with ACPO's guidance to police on journalists?

In order that we can consider your response before our evidence session with the Minister, we would be very grateful if you could reply by 1 June 2009.

21 May 2009

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**Letter to Chairman from Assistant Commissioner Frank Armstrong, City of London Police**

Thank you for your letter dated the 21 May 2009 regarding the policing of G20. As you will be aware, the policing plan for G20 was a joint operation between a number of forces arranged under established protocols.

The direction and control of this operation was managed by the Metropolitan Police Service and it is right that I therefore do not answer questions in relation to the overall command of the operation. However, with that in mind I will answer the remaining points as best I can.

You make mention of a video clip showing a City of London Police Inspector answering repeated questions about his identity. This matter was a potential conduct matter and has been referred for management action. You correctly noted that the officer was properly dressed and wearing his epaulettes as required. I also note that he was not exercising any police power at the time and on advice from the CPS, I can say that he is not required to identify himself in such circumstances. However, in hindsight there may well have been better ways of handling the situation to avoid potential misperceptions of the officer, the force or indeed the police service.

Regarding your question A. 1. I can say that all officers were briefed about the high standards expected of them during the event, including wearing identification numbers and the professional conduct expected.

I am unaware of any City of London Police officer being improperly attired or not wearing identifying insignia or numbers as required during G20. If that had been the case, or if any information comes to light that any officer was not clearly wearing their identification, I can assure you that this would be investigated accordingly.

In relation to your questions at A.2. and A.3., I will continue to ensure the highest standards are maintained during these most challenging policing operations and to ensure that all officers remain identifiable and therefore accountable for the way they exercise police powers. Any lessons learnt from G20 will be accepted and implemented under a training and improvement plan.

With regard to your questions B.4 to 7. I am not aware of any decision to specifically exclude journalists from recording or witnessing the events of that day; and such a decision would not have my support. The City of London Police recognise that it is important to build good relationships with the media and that they have a duty to report from the scene of an incident. We should allow them to carryout that duty unless it interferes with a policing direction.



With reference to the video footage you mentioned, I understand that an Inspector had been tasked with clearing a roadway and footpath of protestors and other members of the public to allow the safe deployment of additional police resources. Whilst there may have been journalists present, the Inspector did not consider it was practical, given the circumstances and numbers, to examine the credentials of all the people there.

It is legitimate to use S.14 of the Public Order Act 1986 where there is the risk of serious disorder, damage to property or disruption to the life of the community. There are times in public order situations, where groups feel the use of such legislation may be unjustified. The senior police officer present, makes a decision based on the information known at that time, and that officer can be held accountable for those decisions at a later date.

I hope to have answered the points raised as fully as possible, if there is any other way I may be able to assist the committee, please do not hesitate to contact me.

29 May 2009

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**Letter to Assistant Commissioner Frank Armstrong, City of London Police**

Thank you for your letter dated 29 May 2009 responding to my letter of 21 May 2009.

In my letter, I asked for the City of London Police's response to a number of questions arising from video footage we have seen of a City of London Police officer ordering journalists to leave the area of the G20 protests for 30 minutes. As we noted in our letter, AC Allison of the Metropolitan Police denied being aware of the incident when we asked him about it in oral evidence on 12 May. In your letter, you also claim no knowledge of the event in question, although state that an Inspector cleared a roadway and footpath to allow the safe deployment of additional police resources. Those cleared may have included journalists as well as members of the public.

We are concerned to note that neither the Metropolitan Police, nor the City of London Police, are adequately able to respond to us regarding this situation. Video footage of this event is publicly available on the Guardian's website.<sup>1</sup> We invite you to view this material and, having done so, would be grateful if you would reconsider the questions we previously raised with you. Please could you reply by 17 June 2009 and send a Word version to [jchr@parliament.uk](mailto:jchr@parliament.uk).

3 June 2009

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**Letter from Frank Armstrong, Assistant Commissioner, City of London Police**

With reference to your letter dated 3 June 2009. The video footage on the Guardian website has been reviewed and to assist your Committee I shall refer my answers to the questions as numbered in your letter of 21 May.

4. On the afternoon of 2 April a large crowd began assembling in front of the Royal Exchange. As the numbers grew the mood of the crowd became more hostile and some people within the crowd were seen to conceal their identity and apply protective padding to parts of their bodies. Fast time intelligence also suggested that people intent on causing violence were attempting to join this crowd. There was a real concern that a breach of the peace or serious violence would occur. A decision was taken to prevent any further demonstrators from joining this crowd in order to prevent any such breaches of the peace or violence from occurring.

The decision to restrict access to the crowd in front of Royal Exchange resulted in large numbers of people congregating in the surrounding streets. Again to prevent any breaches of the peace a decision was taken to implement a dispersal plan to clear the surrounding streets of demonstrators and onlookers prior to undertaking a controlled dispersal of the crowd in front of Royal Exchange. The Inspector shown in the video was assisting in clearing the surrounding streets. He was told to clear all people, not just the press, from the immediate vicinity of Royal Exchange. As he approached a group he identified them as members of the press and hence the way he addressed them.

5. As indicated above, the reason for clearing people was ultimately to facilitate the dispersal of the crowd contained within the Breach of the Peace cordon in front of Royal Exchange. Large groups, which collectively must have numbered approximately 1,000+ demonstrators and on-lookers, were congregating in the surrounding streets. Rather than risk further crowd problems it was felt prudent to clear all these groups first.

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<sup>1</sup> <http://www.guardian.co.uk/politics/2009/apr/21/g20-protest-video-police-2-2> April, 3.46pm, junction of Royal Exchange Passage and Cornhill

6. It should be stressed that the use of Section 14 Public Order Act was discussed as a possible tactic both at the tactical planning meetings held prior to demonstrations of 1–2 April and also on the afternoon of 2nd should it have been considered necessary to facilitate lawful demonstration. However, the use of this power was not authorised by the senior officer present, as is required by the Act and therefore not implemented by the command team.

You will note from the video that the first time that the inspector spoke to the journalists he stated that section 14 could be imposed. He later said that it had been imposed. This was a misunderstanding on his part, which he has subsequently acknowledged and apologised for. It is also recognised that the manner in which he attempted to use Section 14 is not how the Act intended the power to be used. This has identified a training need, which has also been addressed with that officer. The officer appreciates and accepts the error he made.

7. Officers were instructed during briefings before the demonstrations to assist the press with all such information and facilities that could reasonably be made available. Those members of the press that were requested to leave the particular area identified in the video clip were directed to other areas where they could continue to observe the demonstration without impacting on the police operation.

The National Public Order Working Group is currently reviewing proposals around enhanced guidance on working with the media in public order and public safety events. Therefore it would be inappropriate to comment further on this.

I hope that this addresses the points that you have raised. If you or your committee have any further questions please do not hesitate to contact me.

18 June 2009

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#### Letter to Chairman from AC Chris Allison MBE

I am writing following my latest appearance in front of the Joint Committee on Human Rights on 12 May 2009.

You will recall that during my evidence, I received advice from an MPS Solicitor over some specific points of law and you kindly agreed that it was appropriate for me to submit a letter following my appearance covering the legal issues.

During my evidence, Dr Harris posed a series of questions to me based upon the “8 criteria” set out by Lord Neuberger in paragraph 57 of the judgment of the House of Lords in *Austin v Commissioner of Police of the Metropolis* [2009] UKHL 5. He represented these eight criteria as representing the circumstances which should be met in order for a police containment to be lawful. He asked me specifically whether I felt that those 8 criteria were met in relation to the containments of demonstrators at G20, inferring that if any one of them were not met then the Austin judgment makes such containment unlawful.

The MPS legal position is that we do not accept that this is what paragraph 57 of the judgment says. It does not provide any sort of measure against which future public order containments can be tested. As such, I would ask that any further report from the Committee should make it clear that Dr Harris’s interpretation of the meaning of paragraph 57 was incorrect so correcting what will otherwise appear in evidence.

At paragraph 56 of the judgment Lord Neuberger says:

“... as the instant facts do not amount to a ‘paradigm case’, the issue of whether they fell within article 5, so that the appellant was ‘deprived of [her] liberty’, raises what is very much a **fact-sensitive question**. In that connection, the bare facts so far recited do not represent, by any means ‘all the circumstances of the case’.” (*emphasis added*)

He goes on to say in paragraph 57 “in very summary terms, those circumstances included the following significant features, all of which were identified by the Judge, after a very full hearing:” and goes on to list eight circumstances which have been represented by Dr Harris as the “8 criteria”. Far from being put forward by Lord Neuberger as comprising any sort of objective test for judging the legality of a police containment, he was setting them out as being a summary of the most significant considerations **in Ms Austin’s case** which meant that the police containment in Oxford Circus on 1 May 2001 did not amount to a deprivation of liberty for the purposes of Article 5, and therefore the Convention right was not engaged. In addition he was emphasising that that question is fact sensitive and can only be reached following a detailed examination of the evidence.

He concludes in paragraph 62 “I would hold that, in the light of the findings of the Judge, as summarised in para 57 above, the actions of the police **in the present case** did not give rise to any infringement of the appellant’s article 5 rights.” (*emphasis added*)

The principal judgment in the case was given by Lord Hope of Craighead. He explains that the ‘paradigm case’ of deprivation of liberty, referred to by Lord Neuberger at paragraph 56, is close confinement in a prison cell. He says that in circumstances other than the paradigm case, “There is a threshold that must be crossed before this can amount to a breach of article 5(1). Whether it has been crossed must be measured by the degree or intensity of the restriction.” (paragraph 18) “Account must be taken of a whole range of

factors, including the specific situation of the individual and the context in which the restriction of liberty occurs.” (paragraph 21) In my responses to the Committee on 12 May 2009, I explained that the MPS and the relevant commanders concerned understand and accept that their decisions and actions will be held up to such close scrutiny.

Lord Hope went on however to give this general guidance in paragraph 37: “In my opinion measures of crowd control will fall outside the area of [article 5(1)] application, so long as they are not arbitrary. This means that they must be resorted to in good faith, that they must be proportionate and that they are enforced for no longer than is reasonable necessary.”

If this standard is achieved then there is of course still a burden on police to show that the actions taken are lawful under domestic law. In the case of Mayday 2001 both the High Court and Court of Appeal found that the containment was in accordance with the common law on breach of the peace and that was not challenged in the House of Lords.

As I mentioned, I was questioned at length in the High Court trial about the issues of release policy and application of that policy. A transcript of that evidence is available if the Committee would be assisted by it.

During my evidence, I also indicated that I would make available copies of the Gold, Silver and relevant Bronze Commander’s briefing notes and this will be delivered to the Committee.

At the conclusion of the hearing, you indicated that you would be willing to see any video evidence that we wished to submit. While the MPS and the City of London have large amounts of footage that is being examined by the post incident investigation team, it is probably more appropriate to provide you with a copy of the DVD that was shown to Members of the Metropolitan Police Authority. This contains clips from media reporting of the day and was shown on the basis that the media were independent and were reporting what they were seeing was taking place.

I hope that the above assists the Committee.

27 May 2009

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### **Letter to Metropolitan Police Commissioner Sir Paul Stephenson**

#### *Cass Report*

As you may know, the Joint Committee on Human Rights is currently following up its inquiry into policing and protest by examining some issues arising from the recent G20 protests.

During oral evidence with Paul Lewis of the *Guardian* last month we were reminded that the Cass Report into the death of Blair Peach in 1979 has still not been made publicly available. In our view, our understanding of the background to the policing of protest in London would be assisted if we were able to study this report. I would be grateful if you could send us a copy. If you are unwilling to do so, I would be grateful if you could give a full explanation of the reasons for your decision.

9 June 2009

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### **Letter to the Chairman from the Right Honourable Baroness Shirley Williams**

Thank you for inviting me to come and give evidence to your Committee’s hearing on 12 May on the policing of the G20 protests.

I attended the G20 demonstrations on Wednesday 1 April, first at Bishopsgate, then those taking place around the Royal Exchange Building.

As I was present only for two hours in the morning of the protests, I feel I have little of real importance to tell the Committee. The first demonstration at Bishopsgate passed very peacefully and there appeared to be positive and friendly relations between police and protesters. I saw nothing that could be described as bad policing. However, as already indicated, I was there in the morning and the trouble may have started when the police tried to clear the road much later around 7pm. I am puzzled as to why the police made this decision, as it seems to have provoked resistance from protesters who would have otherwise dispersed peacefully. However, I did not myself witness these events, and therefore my own comment is qualified.

As for the other protests, by the Royal Exchange Buildings, I was warned by the police to avoid the area but I approached it nonetheless and was then caught in a human traffic jam, probably because of “kettling”. There was a lot of pushing and shoving but no evident violence around me. However, I could not see exactly what was happening immediately around the Royal Exchange Building.

In the light of this, you may wish to circulate this letter to members of your Committee, as I am not sure what more of substance I could usefully add during a more extensive hearing.

I hope this is of assistance.

April 2009

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### Memorandum submitted by Jim Brann

I have had extensive experience of campaigning locally and nationally as part of the anti-war movement, especially since 2001. Through that I have become aware of relevant provisions of the Public Order Act 1986 and the Human Rights Act 1998.

There are two issues which I have come across and have had to deal with affecting the right to political expression, organisation and protest:

- Widespread ignorance on the part of police officers of Human Rights and Public Order legislation, or their deliberately ignoring it;
- Attempts by local authorities to prohibit street activity such as political leafleting and stalls.

In one case, given below, the two issues come together.

Similar cases have been brought to my attention from around England and several times I have been asked to advise on them.

#### PROBLEMS WITH THE POLICE

Police officers act in ignorance of Human Rights and Public Order legislation, or deliberately flout it. Police will declare a demonstration to be “unauthorised”. They will ask someone who is leafleting on the street whether they have “permission” or a “licence” to do so.

*Example 1:* I was leafleting outside my local tube station. Two British Transport Police officers came up to me. One stood in front of me and one beside me. They asked whether I had “permission” to leaflet. I pointed out that I was on the public highway, that I was not obstructing it, that I had a right to be there and that there was no such thing as “permission” for me to be there.

They remained there for 20 minutes or more, blocking my access to the public. I repeatedly pointed out that the incident was being captured on CCTV and that they had no right to be there. After about 20 minutes they threatened to arrest me and confiscate my leaflets. I said that would be illegal. They then called the Metropolitan Police, apparently thinking that the “problem” was that, as Transport Police, they did not have “jurisdiction”. The Metropolitan Police sergeant who came realised there was no “problem” to deal with and took no action.

*Example 2:* I took part in a demonstration of about 20 people in Bloomsbury in central London. There was no tension or disorder. A police constable got agitated, said it was an “unauthorised demonstration” and began ordering people around. I pointed out that there was no such thing as an “unauthorised demonstration”. He cited the Serious Organised Crime and Police Act 2005 (“SOCPA”) which includes the “Parliament Square ban”. I pointed out that we were well outside the designated zone around Parliament.

#### PROBLEMS WITH LOCAL AUTHORITIES

Local authorities often attempt to prohibit street activity, such as political leafleting and stalls, which is protected under Sections 10 and 11 of the Human Rights Act. I give one example below. I have been informed of several others.

*Example 3:* Around 2005 my local London Borough attempted to ban political leafleting and stalls in the area around the tube station and to limit such activity on the main road to two “designated places” subject to permission and/or a “licence”. Provisions of the London Local Authorities Acts 1990 and 1994 regarding “Distribution of Free Literature” and “Street Trading” were cited as justification. I was warned in a letter that “market staff and the police have been very patient with you so far” and that I faced prosecution if I continued to “defy” the ban.

I wrote to the relevant manager saying that I thought the “ban” contravened sections 10 and 11 of the Human Rights Act. I copied my letter to the Borough Solicitor. Whilst the manager wrote back strongly defending the ban, a Senior Prosecutions Officer wrote to me saying that I was right.

However, the council continued to “uphold” the ban for the next two years.

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#### A COMBINED EXAMPLE

In the following example the two issues came together—police ignorance or flouting of Human Rights and Public Order legislation combined with a local authority “ban”.

*Example 4:* In January 2008 two police sergeants and 5 constables came up to a local anti-war street stall I was staffing with another person. A sergeant asked if we had “permission” to be there. I said there was no such thing. The sergeant cited the SOCPA legislation (see Example 2 above). I pointed out that we were about 4 miles from Parliament Square.

I said that the “ban” cited in Example 3 above was illegal, and that the police should not attempt to enforce it. The sergeant said that the police were there because they had been called by the council, but they were not trying to implement the ban—they had other reasons.

May 2009

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#### Memorandum from Andrew Carter, enclosing letter to IPCC

POLICING AT G20 PROTEST—BANK OF ENGLAND 1 APRIL 2009

Please find enclosed a copy of my letter of complaint to the IPCC regarding the policing of the above protest. As a former special constable and peaceful protestor I was alarmed at seeing the police repeatedly use violence against innocent people, at the unjustifiable and inflammatory use of mass detention tactics, and not least at being assaulted by a senior officer myself.

I look forward to hearing your comments.

#### LETTER TO IPCC

POLICING AT G20 PROTEST—BANK OF ENGLAND 1 APRIL 2009

I write to complain about the actions of police officers from the Metropolitan Police, British Transport Police and City of London Police at the G20 protest outside the Bank of England on 1 April 2009.

I attended the protest in order to register my dissatisfaction with our government’s handling of the economic crisis, with no affiliation to any political or campaigning group, and with entirely peaceful intentions. I am not an experienced protestor.

I should note at this point that I served for a period of around 18 months as a Special Constable with Cambridgeshire Constabulary, so I took with me some sympathy for the police’s task in maintaining order at an event of this sort.

However what I experienced, and witnessed, was in my opinion inflammatory police tactics that unnecessarily provoked violent disorder, coupled with a totally unjustifiable use of force.

#### ACCOUNT OF EVENTS

[Note that timings are based on timestamps on my photographs. Examination of the EXIF data in the supplied files will show that that the camera’s clock matches the clock on the outside of the Royal Exchange building in photo ref Andrew\_Carter5950.]

I arrived outside the Bank of England with a friend (Seth Reynolds of 26 Stevens Ave, London E9 6RX) at about 11.55 am, having approached along Threadneedle Street from the east.

We stood on the steps at the entrance to the Bank observing the crowd and taking photos for about 30 minutes.

I had a good view across the front of the Royal Exchange building and along Threadneedle Street in both directions. I am 6 feet 1 inch tall.

I would describe the crowd that I could see as very well-behaved with no apparent signs of unrest. There were occasional jeers but otherwise the protest was very placid indeed. I had expected some sort of rally with perhaps speeches or at the very least chanting, and in truth I was quite disappointed that the protest seemed to lack any “heart”.

At around 12.30 pm Mr Reynolds and I decided to leave the protest and began moving back in the direction we had come, ie east along Threadneedle Street.

Our way was blocked by a line of police in ordinary uniforms that had closed up roughly outside J Redford & Co tobacconists. Individual officers told us nobody was allowed to pass, without offering any further explanation.

We stood and waited, unsure of why our movements were being curtailed. We were obviously aware of previous police use of “kettling” tactics but there was no sign of any potential disorder at this point, so there appeared to be no reason to impose a cordon.

A group of people with drums and other instruments began playing close by, creating a distraction and causing a general lift in the very peaceful mood.

Over the next few minutes more people began to move from the area directly in front of the Bank towards where we were standing. Our general sense was that many people were losing interest and starting to drift away because not much was happening.

However because the police were preventing people moving along Threadneedle Street the density of the crowd began to increase until it became quite uncomfortable.

As this happened, and the police continued to offer no explanation as to why were being held back, a slight tension started to develop in the crowd. There was a grumbling, then some shouting and jeers, but nothing physical.

I was stood on a pavement edge just at the north side of the road with a good view, and still at this time, in the crowd of at least a couple of hundred that I had direct sight of, there was no disorder.

By approx 12.40 pm, there began to be some jostling with the police officers among those who were beginning to be physically pushed up against them by the weight of people behind, including myself. This was inevitable given we had nowhere to move to.

Beyond the line holding us back I could see a second line of officers facing east along Threadneedle Street. At 12.42 pm I saw a sergeant (badge number “C” or “G” 17) shoving a member of the crowd (photo ref 5959). This seemed unnecessary given that the people in front of him were very calm (see photos 5960, 5961 and 5962 taken over the next 10 seconds). I sensed that the mood of the police officers was changing.

The crowd continued to get heavier and heavier because of people moving up from behind us until it reached the point when the physical pressure on the police line became too much for them to hold. I would estimate from my photographs that this was around 12.49 pm.

The police line started to collapse I was pushed forward directly onto officers. I kept my arms up and visible to indicate I was not posing a threat, but was manhandled roughly by officers as the line broke down and people began falling on top of one another.

Mr Reynolds and I ended up in the area between the two police lines and were picked up, again roughly, by officers and ejected into the area outside of the second police line, away from the Bank. We turned around to see the first line of officers struggling to hold their positions.

[From my photographs at this point I can see that there is a small group of people who might justifiably be identified as troublemakers, most with their faces masked, close to the police line, but these people are vastly outnumbered by photographers and peaceful protestors—photo 5983.]

Some officers had batons drawn. Over the next three to four minutes the struggle intensified and more officers began to draw their batons. Some began to strike out at members of the crowd; in the cases close to me where I had a clear view these strikes appeared to be indiscriminate attacks on passive protestors.

I was aware that perhaps 10 metres away towards the south side of Threadneedle Street elements of the crowd had begun to react with violence towards police officers. However this was not the case close to where I was standing at the north side of the road.

The police baton assaults continued sporadically throughout the standoff that followed. Some people were holding their arms above their heads to defend themselves from the blows (photo 6016).

In particular the behaviour of two officers with “Police Medic” markings on their backs stood out (officer 1: sergeant seen in photos 6045, 6052 and sequence 6040, 6042 (extreme left hand edge of frame) and 6043 (appears to bring baton down with considerable force); officer 2: photos 6016 & 6021). I watched them both move up and down behind the line of their colleagues and repeatedly reach over these other officers to strike passive protestors indiscriminately and with considerable force. At one point officer 1 grasped his baton with both hands and jabbed it end-on into a person’s head through a gap between his colleagues, using some force. Throughout, this officer, a sergeant, seemed to be lashing out with particular frequency and vigour. Note that both these officers were separated from the crowd by their colleagues and were not directly exposed to any physical threat.

As we watched we were repeatedly shouted at by police officers in the line nearest us to move back, even though there was a heavy crowd behind and we had nowhere to move to. They then began to push us back, causing a crush and knocking people off their feet.

All these events were under the direct supervision of a number of senior officers who were in the clear zone between the two lines of police: a chief superintendent (photo 6060) and two inspectors (inspector 1: photos 6055 & 6056; inspector 2: photo 6057). During almost 20 minutes of scuffles and police assaults on protestors at this position all these senior officers moved around between the two police lines observing what was going on.

I should also add that at no point during the above events were any general instructions issued to the crowd by the police, except one-on-one calls from officers to “get back”.

Mr Reynolds and I moved off along Threadneedle Street soon after 1.10 pm and emerged into the end of Bartholomew Lane where the crowd thinned considerably.

I began talking to a man wearing a “legal observer” vest about what I’d witnessed. He pointed out to me an officer standing nearby who he identified as “Chief Superintendent Johnson”, who he said was in charge of what was happening in that area.

I walked over to this officer (an IC1 male who I can confirm had the epaulette markings of a chief superintendent), and began asking, in a reasonable manner, why he was maintaining the cordon in place when it only seemed to be aggravating the situation.

He replied curtly, “I’m very busy right now”, and then shoved me in the chest. A sergeant placed himself in between us, facing away from me. Naturally, I was stunned at the senior officer’s response. Mr Reynolds and I left the area at this point.

#### ISSUES ARISING

##### 1. *Indiscriminate and unjustifiable mass detention of innocent people*

There was no disorder anywhere in a wide area around the Bank of England at the time the police commenced their mass detention around 12.30 pm, nor any sign that it was imminent. The police’s use of the “kettling” tactic at this point was therefore I believe completely unjustifiable.

##### 2. *Unjustifiable and unnecessary mass detention provoked violence*

The police’s unexplained blockade of peaceful protestors trying to move along Threadneedle Street created a crush and caused tempers to flare, leading to inevitable clashes. Without the police cordon protestors would have dispersed without incident. This was in my opinion an incompetent and dangerous mistake by police commanders. Lack of police explanation as to what was going on or what they were trying to achieve made matters worse.

##### 3. *Exposure of police officers to risk potentially elevated their violent response*

The officers forming the cordon across Threadneedle Street outside J Redford & Co were not in riot gear—presumably an attempt not to inflame tensions. However, given that their line was sandwiched between two large crowds (one outside the Bank of England, the other moving down Threadneedle Street towards the Bank) with no escape route, it was inevitable that they would come under sheer pressure of numbers, resulting in them feeling vulnerable. I believe this perceived threat contributed to the level of violence they displayed towards protestors when scuffles began.

To position poorly-protected officers at this point and expect them to hold back a large crowd I believe demonstrates extremely poor judgment by senior officers.

##### 4. *Disproportionately violent response of individual police officers to low-level unrest*

When the police line eventually broke down I saw at least a couple of dozen officers respond with totally unjustifiable force against mainly peaceful protestors, striking out wildly with their batons into the crowd.

I acknowledge that some officers might have faced kicks and punches from a few troublemakers (which I did not see), but in general their violent response was indiscriminate and disproportionate. I saw many instances of baton assaults on people who were completely passive in front of the police line. It was sickening to watch, especially in view of the lack of provocation. The “medics” in particular that I have mentioned acted with wanton brutality, which I found staggering given their specialist duty to attend the injured.

The fact that senior officers looked on at these repeated assaults without intervening also causes me grave concern.

##### 5. *Lack of communication from police to crowd*

If the police wanted to crowd to stop moving to avoid adding pressure to the police lines, they could have said so but did not. Individuals in the crowd may not have been aware of what was happening up ahead, or what was expected of them. Therefore there can be no justification of the generalised use of force against the crowd for defying police instructions, since none were given.

##### 6. *Assault by “Chief Superintendent Johnson”*

To be manhandled and pushed around by low-ranking officers as an innocent protestor is unacceptable. To be assaulted by a very senior officer is deeply disturbing. “Ch Supt Johnson” was clearly under intense professional pressure in the face of the situation getting out of control (although I should stress again that I approached him around the corner from the fracas, away from the crowd in a relatively quiet area). I asked a question that may have seemed to him challenging, but I did so in a reasonable manner and did not pose a threat to him, as evidenced by the fact that the sergeant who stepped in between us did so with his back to me. Therefore his assault on me is utterly unjustifiable and unacceptable. It is especially disgraceful given his senior position and responsibilities.

##### 7. *Discouragement of wider participation in future protests*

First, peaceful protestors were arbitrarily detained. Second, the police’s “kettling” tactics inevitably escalated what was a peaceful situation towards violence. Third, when trouble started individual officers reacted with frightening violence towards innocent people. All these factors together would cause me to think twice about attending future protests.

I'm sure the same goes for others who were there too, as well as many of those who saw media reports about what happened. More than any other concerns I have, my worry that the police actions have contributed to an erosion of our democratic freedom to protest is gravest of all.

#### 8. *Loss of trust in the police*

As a former special constable I previously carried great confidence that even in the most difficult circumstances the police were there to protect the public. However, now having witnessed my former colleagues suddenly turn against me and other innocent people with such aggression, and having feared for my own safety at their hands, this trust is lost.

It seems that the problems with policing of this protest were on many levels, including: out-of-control low-ranking officers; inadequate immediate supervision of these constables at the "front line" by senior officers; poor tactical judgement and planning on the part of senior officers; and finally a member of the senior supervisory team so lacking control of his own behaviour that he was prepared himself to act violently towards an innocent member of the public.

I look forward to hearing how you intend to address these eight separate issues at your earliest convenience.

Please note that Seth Reynolds is happy to be contacted if he can be of assistance.

Many thanks for your attention.

18 April 2009

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#### **Memorandum submitted by Climate Camp**

We welcome the fact that the Joint Parliamentary Committee on Human Rights (the Committee) have, in light of the recent policing of the G20, the Tamil protests and pre-emptive arrests at the Iona school in Nottingham, decided to follow up the recommendations contained in *Demonstrating Respect for Rights? A human rights based approach to policing protest* (March 2009, hereafter "the Report").

The Climate Camp Legal Team have already provided an initial response to these recommendations within the context of the G20 in our report *Climate Camp in the City April 2009: Demonstrating Respect for Rights?* We have previously sent the Committee a copy of our report and are happy to confirm our willingness for the report to be treated as written evidence for the Committee's enquiries.

We would like to take this opportunity to make a few additional comments and do so on the basis that the Committee is already familiar with much of the factual background concerning police misconduct and strategy at the G20 and have instead sought to succinctly highlight and update in light of more recent events some key issues for the Committee's consideration.

At the outset, we note with some concern the preliminary response of the Home Office Minister Vernon Coaker, dated 20 April 2009. In this response, the Minister suggests that the problems associated with the policing of the G20 arose largely as a result of the alleged misconduct of individual officers now subject to IPCC investigation and that "we should not lose sight of the fact that over the course of the G20 ... thousands of people were able to demonstrate peacefully on our streets". Whilst we await the government's full response to the Committee's report and reserve our full comments until that response has been forthcoming, we strongly disagree with initial approach adopted by the Minister suggesting that "a few bad apples" amongst the police tainted what was otherwise an effective and proportionate policing operation.

As discussed in more detail below, we submit that the mistakes made and strategies used by the police during the G20 highlight more fundamental and systemic problems with the policing of protest in the United Kingdom and the depth of the changes that need to be made to allow a human-rights based approach to the policing of protest to be realised—that is, an approach predicated on the protection and facilitation (rather than the violent suppression) of people's right to protest by the government. In the earlier report of March 2009 the Committee found that there were no systematic human rights abuses in the policing of protest in the United Kingdom. In light of recent events, including the aggressive and unlawfully disproportionate policing of the G20 and the tragic death of Mr Ian Tomlinson following an unprovoked police attack, we would urge the Committee to revisit this finding and take this opportunity to ensure that robust measures are urgently introduced to both make the police more accountable for their actions and to facilitate the right to protest.

We maintain that an effective, independent and broad-ranging public inquiry into policing of protest in the United Kingdom must be held to properly address these issues and ensure that our rights to protest are protected from further erosion at the hands of the police and the state.



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 MAIN ISSUES
1. *Unlawful and Disproportionate Policing of Protest*

The law governing the rights to freedom of assembly and expression (Articles 10 & 11, European Convention on Human Rights (ECHR)) have already been discussed at some length in the Committee's report of March 2009 and so will not be repeated in detail here. Suffice to say, an interference with these fundamental rights of freedom of expression and assembly can *only* be justified if it is "prescribed by law" (see articles 10(2) and 11(2) ECHR). Furthermore, even if the interference is "prescribed by law", it will only be justified by reference to a "pressing social need" (see *R v Shayler* [2003] 1 AC 247 at para 23) and such pressing social need must be "convincingly established" by the State (see *Sunday Times v United Kingdom* (No. 2) (1992) 14 EHRR 229 at para 50). This will, in part, turn on whether the interference is "proportionate"—that is, whether it represents the least intrusive means of achieving a legitimate objective.

The requirement of proportionality involves an assessment of whether the State has pursued a legitimate aim in a way that is in proper proportion to the impact on individual rights. Ordinarily, preventative interference with the right to freedom of expression and assembly manifested in a peaceful public protest can only be justified if there is a reasonable anticipation of imminent serious public disorder [see *Stankov v Bulgaria* (2.10.01, ECtHR)]. Tolerance of peaceful assemblies by the state is important so as to ensure that the rights guaranteed by Article 11 are meaningful and not deprived of all substance [*Oya Ataman v Turkey* App. No. 74552/01, paras. 41–42]. Moreover, as recently stated by the Court of Appeal in the case of *Tabernacle v Secretary of State for Defence* [(2009) EWCA Civ 23, para.43], "rights worth having are unruly things. Demonstrations and protests are liable to be a nuisance. They are liable to be inconvenient and tiresome, or at least perceived as such by others who are out of sympathy with them". We strongly agree, therefore, with the Committee's recommendation that the police should be exceptionally slow to interfere with peaceful demonstrations simply because of the supposed actions of a "violent minority".

## (a) The use of "Kettling"

We maintain that the police's use of "kettling"—principally at the G20 protests but also at the other demonstrations discussed in our report—constitutes a disproportionate and unlawful interference with the exercise of Article 10 and 11 rights. At both the G20 and Climate Camp demonstrations on 1 April, for example, protestors and other members of the public who had been passing through the area were confined inside a police kettle for five hours or more. The effects of this form of policing are significant. People are collectively detained in a confined area for excessive periods of time, regardless of individual circumstance or behaviour, without arrest or access to food, drink or toilet facilities. It is a technique of crowd and social control used by the police as a first (rather than last) resort to contain and interfere with legitimate political dissent. In some instances—for example, at the recent Gaza demonstrations discussed in our report (at p.5)—police are only allowing people to leave kettles upon full disclosure of their name, address and agreement to having their photo taken for identification purposes. It is generally left unclear to those detained within kettles why they are being held and prevented from exercising their right to protest. It is also a technique that heightens (rather than dissipates) tension and the potential for conflict between police and protestors, who are understandably concerned at being pre-emptively detained and having their Convention rights so flagrantly violated for no apparent reason.

There is no statutory power which entitles the police to kettle people. Instead they rely on a common law power, which all citizens have, to detain others in order to prevent breaches of the peace (which in turn means violence to persons or, in their presence, to their property). In the case of the April 1 Climate Camp demonstration, those present were kettled from shortly before 7pm until around midnight. The Climate Camp had been taking place on Bishopsgate for the previous six and a half hours without any violence to persons, and the only property damage we are aware of is some graffiti on a police van parked in the area occupied by the camp. It is hard to see that there was any reason to fear for breaches of the peace, let alone any serious enough to justify the imposition of a 5-hour long kettle on several thousand peaceful demonstrators.

In their report to the Metropolitan Police Authority ([www.mpa.gov.uk/committees/mpa/2009/090430/06a/?qu=g20&sc=2&ht=1](http://www.mpa.gov.uk/committees/mpa/2009/090430/06a/?qu=g20&sc=2&ht=1)), the police appear tacitly to acknowledge they had no grounds to suspect breaches of the peace on the part of Climate Camp participants. Paragraph 47 states:

*"At about 7.00 p.m., cordons were put in place around the Climate Camp demonstration to prevent disorderly protestors from the Bank of England joining this protest."*

Incidentally we would also dispute the remainder of paragraph 47. Notably it claims that people were free to leave the kettle. In fact large numbers asked to leave and were denied permission to do so.

We understand that the kettling of protestors by the police at the G20 is likely to be subject to specific public law challenge in the High Court. However, we believe that it should not simply be left to individual protestors to bring expensive and lengthy legal challenges in order to force the police to amend their operational strategies. There is a clear role for the Committee to intervene and take the political initiative on this important issue. Accordingly, we urge the Committee to seize the opportunity presented by the current review process to recommend, in the strongest possible terms, that regulations or operational procedures be brought into effect that ban the use of kettling as public order policing strategy or, alternatively, restrict its use as a technique of last resort. Such a reform would be consistent with the Committee's earlier

recommendation that “the police should be exceptionally slow to prevent or interfere with a peaceful demonstration simply because of the violent actions of a minority” (para. 23, March 2009 Report) and an important practical means by which people’s right to protest can be protected and state compliance with human rights principles and Convention rights can be met.

(b) The use of excessive violence against protestors

There has been widespread media reporting of the police violence both at the G20 and Climate Camp demonstrations. Much of this coverage has suggested that this was simply a case of a few individual officers losing control in the context of a tense but generally well-managed policing operation. We do not accept this interpretation. The decision to send in large numbers of officers to assault climate camp participants shortly after 7pm appears to have had no legal foundation whatsoever.

The police had been maintaining a permeable cordon at either end of the Climate Camp, and Camp participants had been relaxing and joking with the police only minutes before 7pm. Soon after 7pm the police lines were reinforced by large numbers of riot police and formed into a solid cordon. Moments later, the police started advancing on the crowd, hitting them with riot shields and then with batons. No announcement was made before this police advance began, no warnings were given for people to move, nor were any legal grounds given as to why they should do so. There is plenty of video footage showing this. This was not a case of individual officers getting out of order but a co-ordinated assault on a large crowd of demonstrators who, nonetheless, remained entirely peaceful under intense provocation. It is extremely difficult to square the police’s actions with their stated aim of facilitating peaceful protest or their later explanation that it was necessary to keep other protestors out of the Camp.

We are particularly concerned at the apparent use of Tasers during a police raid on a squatted building the day after the G20 and Climate Camp demonstrations had taken place. This had been opened up to provide accommodation for people who had taken part in the demonstrations, including many who had been unable to travel home at the end of April 1 as a result of being kettled. The following day the police raided the building where they were staying, arresting everyone inside on suspicion of “violent disorder”, and then “de-arrested” all but a few once they were out of the building. It is hard to see footage and read accounts of this raid and consider it a proportionate use of force. More plausible explanations seem to be continued media management, since the police took an embedded film crew with them for this raid, and the desire to intimidate those using the building, in an effort to dissuade them from attending any similar demonstrations in future.

## 2. *Pre-emptive policing*

The Climate Camp Legal Team notes the arrest of 114 protestors in Nottingham. We understand they were arrested for conspiracy to cause aggravated trespass and criminal damage and were subsequently released without charge on police bail to return in July. Some had bail conditions restricting their ability to protest near power stations.

Our experience is that a significant proportion of arrests at protests do not lead to charges, let alone convictions, yet police bail conditions are often imposed preventing continued involvement in protest for some months. When arrests are pre-emptive rather than reactive, and large in number, the implications of this approach become particularly worrying. The underlying attitude is one that equates protest with crime and disorder and sees it as something to be beaten. This perspective is evident in HM Inspectorate of Constabulary’s thematic report on “*Keeping the peace: policing protest*”, March 1999 where the use of the same strategic model for beating crime is recommended.

Public order policing in the United Kingdom tends to operationally assume an indistinction between “terrorism”, “politically motivated extremism” and protest. The widespread use of the Terrorism Act 2000 to stop and search without suspicion, arming the police with a greater panoply of non-lethal weaponry (such as Tasers), routine surveillance of demonstrators (by units such as the Forward Intelligence Team) and infiltration of protest groups (see, for example, the recent exposure of Strathclyde Police’s attempts to employ informants from within the Plane Stupid protest group in Glasgow), the public relations strategies developed by the police in the lead up to demonstrations where the purported threat of violence and ‘domestic extremism’ is introduced and escalated and the increasing paramilitarisation of the police through regular deployment of the Territorial Support Group (TSG) at protests has led to a form of public order policing that is often *pre-emptive* (based on categorical suspicion and the suppression of the right to protest) rather than *reactive* and often out of proportion to the scale of the protest concerned.

It is within this context that the Committee’s recommendations for a human-rights based approach to the policing of protest are of particular significance—that is, an approach grounded in the *facilitation* (rather than the interference and preventative suppression) of the right to protest. We strongly urge the Committee to use the current review process to introduce robust methods of challenging and changing this form, strategy and culture of pre-emptive policing as a matter of urgency.

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## CONCLUSION

We believe that the current review process being undertaken by the Committee is an important vehicle for stimulating a much needed and long-overdue public discussion around the importance of our right to protest and the ways the police are interfering with, and seeking to erode these rights, in practice. Contrary to the approach thus far adopted by the Government, we believe that the issues raised by the tragic death of Ian Tomlinson, the policing of the G20 and the increasingly draconian methods deployed by the police discussed above are illustrative of *systemic* problems and issues in the policing of protest and highlight the gravity of the changes that need to be introduced to facilitate a shift towards the human-rights based approach recommended by the Committee. As stated earlier, we submit that an effective, independent and broad-ranging public inquiry into the policing of protest in the United Kingdom must be held to properly address these issues and call for the Committee to explicitly make such a recommendation as part of the current review process.

We thank for the Committee for inviting us to provide further submissions on this issue and look forward to addressing the Committee's oral evidence session on 12 May 2009. If there is any further information that would assist the Committee in their enquiries in the interim, please do not hesitate to contact us at the above email address.

May 2009

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### Supplementary memorandum submitted by Climate Camp

During the Climate Camp at Kingsnorth, the Climate Camp Legal Team saw a business card from Kent Police professional standards department with a special number to phone during the Camp with any concerns. These had been given out locally but not to the Camp itself. We made contact and we then met with two members of the professional standards department. We invited them to the Camp so they could understand the context and setting before dealing with complaints. They suggested that perhaps the treatment of legal observers had been because police did not understand the role and suggested that the Legal Team liaise with them or their equivalent in another area in the future.

So, on 10 March 2009 we emailed using their web interface the professional standards department for City of London police seeking reassurances on a number of issues of concern that arose at Kingsnorth and asking for contact details so we could establish police liaison for the G20 Climate Camp. No response was received. We sent the same email on 19 and 20 March 2009 and this time our mailbox received a "denied notice" (550 Rule imposed mailbox access).

By 22 March 2009 we had two confirmed volunteers for police liaison. On 23 March 2009 I contacted professional standards department in the MET by telephone and made contact with Dave Linale who confirmed he was covering the G20 from a professional standards perspective. He saw no need for liaison with the Legal Team, complaints would be dealt with the in the normal way after the event. However, he agreed to forward our email to the relevant command structure. The email previously sent to the City of London police was sent to him late that day. He acknowledged the email the next day saying "As discussed, I have forwarded this to the Operational Command Unit heads for the Metropolitan Police Public Order Branch and for the Territorial Support Group for their consideration."

Meanwhile on 23 March 2009 one of the Police Liaison volunteers made contact with an Inspector Carpenter (?) of operational planning for the City Police and was told he would speak to colleagues to work out what they wanted to do with the offer of contact and he would get back by email. On 24 March 2009 I informed the Police Liaison volunteer that it was the Met leading the policing operation and on 25 March 2009 he reported that he had spoke with a Chief Inspector based at Wood Street Police Station who said he was in charge of public order issues for the City on 1 April 2009. During the conversation it was agreed that he would send an email with some information about the Climate Camp and the Chief Inspector would respond with concerns and issues to start a dialogue. He received a response on 27 March 2009. This email exchange is also included below. A meeting was arranged with him for the morning of 1 April 2009.

Meanwhile, the Press Association on 26 March 2009, reported that Commander Simon O'Brien, a senior commander in charge of policing security around the G20, as saying that, "There are those groups that by their very ethos will not work with or talk to us".

This led to Climate Camp Legal Team explaining that they had been trying to make contact and a meeting being offered by the Climate Camp which was hosted by David Howarth MP. I was present for the Legal Team and there was a member of the Climate Camp Press Team and one of the police liaison volunteers joined the meeting towards the end. The agenda followed was essentially that of the original email, with the addition of a question about tazors and the Met's own questions about the location of the Camp. The gesture remained that of seeking reassurances on some key areas of concern past of previous experiences. Although I know understand that this was experienced as "demands". Notes from the meeting are available from David Howarth MP.

Those present from the Climate Camp did not know the final location, only that everyone was to arrive outside the European Climate Exchange (the focus of the campaigning for the Climate Camp that day) at 12.30 and there would then be a text message. This information had been in the public domain for sometime. The text message facility was presumably set up so that communication was possible if it was necessary to implement a contingency plan. It also had the effect of creating an element of uncertainty which made it impossible for those present to confirm the final location of the Climate Camp at the meeting.

The Climate Camp representatives left the meeting uncertain whether the Camp would be prevented at the outset through seizures etc but were aware of the importance placed by the Met on the ability of the public to carry out their ordinary business of driving along the roads in the City.

The Climate Camp organises non-hierarchically which does mean the police's normal approach of expecting organisers, stewards and head stewards is unrealistic. Teams have specific remits agreed at a monthly national gathering (which is an open meeting) and it is that gathering which makes the overall decisions. Nonetheless since its first Camp, the Climate Camp has always made provision for police and council liaison and there is a Process Team who train and supply facilitators so that Climate Campers have support in the process of making collective decisions by consensus.

My own personal thoughts are that, whilst in principle dialogue sounds like a good idea, the significant imbalance of power that exists in a dialogue between protestors and the police means it is unlikely work in practice except as another means to exert control. It particularly difficult to see how a "no surprises" approach will work. Police are not going to facilitate unlawful protest. So, for instance, obstruction of the highway is unlawful. Whilst that basic legal position is mitigated by human rights considerations it does leave in practice a huge amount of discretion residing with the police. Climate Campers, like many other protest groups, have experienced that discretion exercised seemingly inconsistently, capriciously, unlawfully and in a heavy-handed manner. Surprises from protestors are one of the few "assets" they have. Having said that the Climate Camp plans its Camps in an open manner with minutes of meetings on its website and the main information apart from the final location is published. It is difficult to imagine the police taking such an "open book" approach.

June 2009

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#### **Memorandum submitted by the Countryside Alliance**

The Countryside Alliance welcomes The Joint Committee on Human Rights's decision to call for further evidence in the light of the recent high profile events involving policing of demonstrations, in particular the protests surrounding the G20 Summit.

In our earlier submission made by our President, Baroness Mallalieu QC, we drew the Committee's attention to our experience of policing and protest including the demonstration in Parliament Square on 15 September 2004. We would urge the Committee to look again at the Independent Police Complaints Commission's (IPCC) report into the policing of that demonstration. Sadly, had the same media interest been shown then in the large number of serious injuries sustained by protestors, and the lessons of that day been learnt, the events during the recent G20 protests might not have occurred. When the report was published, the Chairman of the IPCC wrote: "the images of injured hunt supporters cast a shadow across the reputation of the Metropolitan Police Service".

In summary 20,000 demonstrators attended the demonstration on 15 September 2004, along with 1,300 police officers. In the clash that followed, 40 of our members received serious head injuries as result of being hit on the head by police officers, against all instructions. There were 425 complaints to the IPCC and 31 officers received Regulation 9 notices. 17 officers had files passed to the Crown Prosecution Service (CPS) for crimes varying from Common Assault to Actual Bodily Harm.

Just prior to the IPCC inquiry a Metropolitan Police press release claimed that 60 officers had been injured, and yet none of the local hospitals had any record of admissions or treating any officers, let alone 60 of them. The inquiry involved up to 17 people from the IPCC and took 14 months to report. Of the cases that went to the CPS, there were no convictions, and no disciplinary action was taken against any officer, including those who removed/covered their ID, despite, as the report stated there being "clear examples of some officers ignoring this instruction (*to have their ID numbers clearly visible*)".

Prior to this event, officers were told that "over reaction is not acceptable" and that they should "look professional as well as being professional". We are the first to echo the view that policing these events is fraught with difficulty. Yet exactly one week after this incident we put the same 20,000 people in Brighton for the Labour Party conference. Tensions were high and the opportunity for "flash points" even more numerous than before, but this time with real anger added to the mix. Sussex Police handled the event to perfection. It was controlled and peaceful; there were no arrests and no injuries.

It seems that few, if any, lessons were learnt from the IPCC report of the 2004 demonstration and recent events have seen the same mistakes repeated, including some officers removing/covering their ID. I would thus urge the Committee to look at the remarkable similarities between the events of 2004 and more recent events.

If I can be of any further assistance to the Committee please do not hesitate to contact me.

April 2009

### Memorandum submitted by Defend Peaceful Protest

#### SUMMARY

“Defend Peaceful Protest” (DPP) are a campaigning group whose origins lie in the G20 protests and the subsequent concern that the human rights issues arising from these protests be fully addressed. This submission outlines our evidence and concludes that there is a need for a fully independent, impartial enquiry with public disclosure of evidence and findings.

#### INTRODUCTION—WHO WE ARE

DPP is a grassroots group campaigning to protect the right to peaceful protest. The group was created following the G20 protests. Originating as a Facebook group which allowed people to share their views and experiences of the protests, we have grown into a campaigning organisation with over 2100 supporters. We count amongst our members and supporters MPs, MEP’s journalists and NGOs.

DPP is not aligned to any political group and is concerned exclusively with non-violent methods of demonstration. We support the protection of the right to protest, without intimidation, for all peoples with all manner of beliefs.

#### EVIDENCE

Our evidence looks at how the policing of two of the G20 demonstrations, Climate Camp and the “Financial Fools day” protest at the Bank of England, failed to meet a “human rights based approach to policing”. We also attach two appendices [1] Includes witness statements [2] Is a glossary of video evidence we have compiled/

#### (a) *Balancing the human rights and liberties of protestors and others*

The “Climate Camp in the city” demonstration occupied a 70m stretch of road outside the Carbon Exchange near Bishopsgate. The protest was highly organised and it was possible to travel through the designated area easily with no hindrance from protestors. The camp had stewards collecting litter, a toilet tent and was deliberately designed with a carnival and peaceful atmosphere. Numerous accounts by journalists and other observers strongly suggest this demonstration posed little threat to the general public or private property, although some traffic disruption was caused.

The video link (<http://www.youtube.com/watch?v=t244-zEENSs&feature=related>) <http://www.youtube.com/watch?v=t244-zEENSs&feature=related> shows the various stages of the demonstration. It shows how the demonstration, which had been peaceful, was broken up by considerable police force.

DPP believe that the police failed to effectively balance the rights of protestors with those of others, in line with an effective “human rights based approach to policing” in a number of ways, including:

1. We have deep concerns the decisions made by the police to employ certain tactics and at the way the operations were carried out. We are particularly concerned that Articles 5 (liberty and security of person) and 11 (freedom of assembly and association) of the European Convention on Human Rights were violated in the process.
2. As well as violating protestors’ human rights the tactics deployed actually did more to undermine the protection of the general public and property than to secure it. By “kettling” people at both protests for many hours there is clear evidence that the police also violated the rights of passersby, observers and the press in the immediate area.
3. With regards to protection of property, it must be noted that the riot police destroyed a number of tents and bikes in the operation, which were the property of protestors. While there was a small amount of superficial damage caused by chalk and crayon graffiti by Climate Camp protestors on the walls of the European Carbon Exchange and some minor damage to police vans within the kettled area, we do not consider such damage to be in any way sufficient grounds for clearing the camp.
4. We note that the police began the aggressive kettling operation and use of riot police at the Climate Camp from around 7.10pm —out of normal working hours and when the potential for disruption had diminished. At around 10pm and at 12am there were two concerted charges by police using batons, shields and dogs on demonstrators. The most excessive use of force occurred at around 12.30am. At this time there were very few members of the public present at risk of being hindered going about their lawful business. DPP and other observers are concerned that the decision to

completely clear the camp at this point was perhaps more to do with the presence of fewer journalists and acting under the cover of darkness than a proper prioritising of rights by commanders on the ground.

5. No witnesses we have spoken to saw any attempt to give prior warning that the camp was to be cleared.
6. The decision to pre-emptively confine and kettle the Bank of England demonstration clearly created a dangerous situation in which protestors and many others were contained for many hours without access to food, water, toilets etc and with no regard for their human rights under the European Convention. The police decision to kettle in order to control a small number of people they considered to be intent on violence is an infringement of the human rights of the majority. We believe the lack of space within the barriers and the use of kettling as a preventative measure instigated higher levels of violence than might have otherwise been seen. One of the early videos of the day shows protestors, who had been crushed into pens with steel barriers, push the police line back over these barriers. DPP have spoken to numerous witnesses, including Sunny Hundal, a Guardian journalist, and DPP member Anna Bragga, who all feel certain that the method of containment encouraged the more violent elements of the crowd to react against the police.

(b) *Proportionality in the use of force in policing demonstrations*

We do not consider that the use of police force displayed at G20 was appropriate in the context of a demonstration using non-violent direct action. ACPO's own guidance developed in 2006 states that there should be "*a reasonable relationship of proportionality between the means employed and the aim pursued*". Training used in police manuals suggests that in "passive resistant" situations only "communication" and "soft" methods of physical control should be used.

Bindmans Solicitors is preparing a dossier of evidence on behalf of the Climate Camp legal team, and other protestors against the Metropolitan Police, after being inundated with over 200 claims by people assaulted and wounded by officers. The injuries sustained by demonstrators include head injuries, fractures and severe bruising.

Separately from these legal challenges, DPP has documented dozens of cases of assault by police officers including cases of head injury, cuts, bruising and broken limbs from batons, being pushed to the ground during "kettling" operations, threats of severe force (breaking fingers or arms) as part of restraint techniques and other violence and intimidation.

In keeping with the human rights based approach recommended by the JCHR in its recent report on policing and protest, DPP would also like to draw attention to the second and third Articles of the United Nations Code of Conduct for Law Enforcement Officials which state:

2. *In the performance of their duty, [police officers] shall respect and protect human dignity and maintain and uphold the human rights of all persons.*
3. *[Police officers] may use force only when strictly necessary and to the extent required for the performance of their duty.*

Repeatedly punching, batoning and using edges of riot shields on peaceful demonstrators in a non-violent situation does not, in our opinion, fit any definition of "reasonable" use of force. Nor does it meet the standards set by UN and ACPO's own guidance on policing. Defend Peaceful Protest believe the force employed at G20 should properly be denounced as inhuman and degrading treatment and those senior officers responsible for the approach employed should be held to account.

## CONCLUSIONS

Our experience at the protests, and the hundreds of statements that we have received, have shown that the police failed to adhere to many of the JCHR's recent recommendations on policing and protest including: fostering "effective dialogue with protestors", aiming for "*no surprises*" policing, addressing the "improper use [of police powers] to prevent photographing or filming police", allowing journalists "to carry out their lawful business", and, understanding that "the deployment of riot police can unnecessarily raise the temperature at protests".

Furthermore, we consider that tactics employed at G20 demonstrate an approach towards protest was primarily about repression and not about public order. This clearly fails to recognise the "presumption...in favour of protests taking place unless compelling evidence can be provided of legitimate reasons for any restrictions" that the JCHR so highly endorses.

Based on our direct experiences and evidence collected on the G20 protests, we seek:

(a) *An independent inquiry and reform of policing at protests.*

We have confidence that a re-evaluation of techniques and tactics would increase the police's credibility with regard to policing protests and help to ensure that the police themselves operate within the law. Any inquiry under the Inquiries Act 2005 will not satisfy the criteria for a genuinely effective and impartial investigation. The hearings and the methods of the investigation must be made public and there must be public disclosure of the evidence and findings.

(b) *Further dialogue*

We would like to propose the creation of a forum which would allow transparent dialogue between the police and all interested parties on this important agenda. We believe that an unambiguous and respectful dialogue would be tremendously beneficial in safeguarding the rights of individuals and groups to protest without fear of these rights being abused.

May 2009

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**Supplementary memorandum submitted by Andrew May, Defend Peaceful Protest**

SUMMARY

I wish to draw the committee's attention to three examples of inconsistencies and "spin" within the Police report to the G20 protest policing at the MPA meeting on Thursday 30 April. These are in addition to other examples of inconsistencies which Climate Camp legal team have covered in their own report.

Aside from being concerned at the honesty and integrity of the statements themselves, Defend Peaceful Protest raise a concern that there is resentment building up in the various disparate groups working around G20 and general protesting issues over the inaccuracies in police statements and a perception of "spin" inherent in their reports and statements.

Having attended meetings and liaised with various groups, we feel that if they are not dealt with and corrected the police are risking further alienation of protest groups and the general public. As a group advocating non-violence and dialogue with a police and supporting a human rights based approach to policing,<sup>2</sup> this break down of trust is not something we wish to see.

EVIDENCE

Extract of police statements to MPA meeting in italics.

*Ian Tomlinson*

*"There has been much talk in the media about the MPS seeking to mislead the media about this case. The MPS issued one press release about the incident that evening, which was approved by the IPCC. This statement outlined the facts that were known to the MPS at that time and did not say that there had been no contact with Mr Tomlinson prior to him being treated by the medics. Nick Hardwick has said that "we have had good cooperation from the City Of London and the Metropolitan Police "There has been much talk in the media about the MPS seeking to mislead the media about this case. The MPS issued one press release about the incident that evening, which was approved by the IPCC. This statement outlined the facts that were known to the MPS at that time and did not say that there had been no contact with Mr Tomlinson prior to him being treated by the medics. Nick Hardwick has said that "we have had good cooperation from the City Of London and the Metropolitan Police."*

- At the MPA meeting Chris Allison (Temporary Assistant Commissioner of the MET) confirmed that on April 1st he was in the police control room viewing "Heli Telly" (helicopter TV footage) of the incident involving Mr Ian Tomlinson being attended to by police medics. Therefore Mr Allison would have had seen the incident in its entirety (if not live then almost immediately live by watching playbacks in the control room)
- Despite seeing this footage a police statement was subsequently released (<http://www.guardian.co.uk/uk/2009/apr/08/ian-tomlinson-g20-death-official-police-account>) stating that "The officers took the decision to move him as during this time a number of missiles—believed to be bottles—were being thrown at them."
- On the following day, a police statement was read to press reiterating the original press release, stating that "we came under sustained fire from missiles." This has been edited and recorded by a member of the public and posted on Youtube. The edited version is available here.

It appears these two statements appear to have been released despite one of the senior officers in charge of the operation having viewed the incident on camera in real time.

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<sup>2</sup> Submitted 11 May 2009 by Defend Peaceful Protest: [www.defendpeacefulprotest.org](http://www.defendpeacefulprotest.org)

*Climate Camp*

*“At about 7pm, cordons were put in place around the Climate Camp demonstration to prevent disorderly protestors from the Bank of England joining this protest. However, during this time, Climate Camp protestors were allowed to leave the cordoned area if they wished. Violent protestors did approach the outside of the cordons and were moved away.”*

- This is not correct—from personal experience I can refute this claim. I was there at 7pm and specifically asked to leave the demonstration. When I stated I had specifically gone to observe the protest I was denied exit at the North End. I was only able to leave the south end after intense negotiation with an individual police officer in a situation where people were being hit around me with shields and batons.
- The officer only let me out after I showed a work card (my Amnesty International ID card). I demanded that a riot police officer let me out or I would be contacting my colleagues and making a complaint. It was clear to me that I was only allowed to leave once unless I stated I was in no way involved in the protest (and have potential to cause them inconvenience).

*Bank of England Kettling operation:*

*Acknowledging the lessons learnt from previous events where this tactic had been used, arrangements were made for portable toilets to be delivered into the area and for water to be supplied. [six toilets were provided at 1445 and were operational by 1530 with running water. In addition five hundred bottles of water were provided specifically for the protestors at a number of locations. Public announcements were made by the police informing the protestors that both toilets and water were available*

- From accounts of two members of Defend Peaceful Protest, Guy Aitchenson (contributor to convention on Modern Liberty and Anna Bragga, an NUJ card holder, there were no toilets available. Numerous accounts attest to the fact that protestors unable to leave the kettle were forced to relieve themselves in the street. Other accounts report of a large banner being used to make a covered area for women to use as a toilet, since no portable toilets were apparent.
- There are numerous other accounts available online which we can provide in future evidence which suggest that either this police response is entirely inaccurate or that the provisions the police made were utterly inadequate. Defend Peaceful Protest feel the JCHR should look at this as an issue of degrading treatment—which came about because of the containment tactics used.

Police extracts taken from MPA Police briefing extracts in bold (from MPA website below) <http://www.mpa.gov.uk/committees/mpa/2009/090430/06c/>

May 2009

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**Memorandum submitted by Val Swain, FITwatch**

**FITWATCH, A BRIEF BACKGROUND**

FITwatch is an initiative begun by a group of activists frustrated and appalled by the way in which protest was policed by the public order unit, CO11 and the Forward Intelligence Teams that they employ. It is driven by a group of individuals with a great deal of first hand knowledge of the tactics deployed by the police on political protest, and of the consequences this has had both for the people directly involved, and on the ability to protest generally.

FITwatch exists as a general initiative of opposition to Forward Intelligence Teams (FIT), but also exists as a loose group of individuals with varying degrees of involvement and activity. In keeping with many protest groups, it does not have a structured hierarchy, and it is therefore not possible to formally submit this report “on behalf of” FITwatch. It is, however, a culmination of much debate and it is written in the belief that the views expressed are broadly reflective of FITwatch as a whole.

Much has been said recently on the use of force by police at demonstrations, and on the potential human rights abuses involved in the use of “kettles”. This report therefore confines itself to two main areas;

- The use of police “kettles” or pens to enable systematic data gathering on the individuals involved;
- The collection and collation of data, and the use of this data to target individuals

**THE USE OF POLICE “KETTLES” OR PENS TO ENABLE SYSTEMATIC DATA GATHERING ON THE INDIVIDUALS INVOLVED**

Police pens or “kettles” have been widely criticised for keeping people for long periods in uncomfortable conditions without access to toilets, food or water, or shelter from the elements. They have also been widely criticised for the arbitrary nature of the detention itself, as inevitably the vast majority of those detained have committed no unlawful acts.



Police justify the use of these tactics in order to contain demonstrations, to control the movement of demonstrations, and to aid dispersal. Less is said about the routine use of kettles to enable the police to systematically gather the personal data of those who have been detained.

FITwatch are aware of very many instances where this has happened, and a number of case studies are given in an appendix to this document by way of example.

The normal pattern is that the kettle is dispersed slowly by allowing people to leave in ones or twos. People are only permitted to leave, however, if they agree to submit to a body search and search of their bags, allow a still photograph to be taken, and provide a name and address. It is usual for the police to use their search powers to go through wallets and purses to check the details given against bank cards, driving licences, library tickets, or whatever other ID the person is carrying.

It should be remembered that there is no allegation of criminal activity that has been made against the individuals that are treated in this way. Those that refuse to provide identification, which is their legal right, are denied the chance to leave the kettle and face further hours of detention.

There are limited occasions where there is a requirement to provide a police officer with a name and address, such as under the Road Traffic Act, but involvement in political protest is not one of them. *These demands amount to unlawful coercion.*

Systematic stop and searches, such as those used at the Climate Camp in Hoo, Kent, last August and previously at protests outside the DSEi arms fair at Excel in East London, are also misused in order to provide the police with personal details of protesters. FITwatch are aware of very many searches that have been carried out ostensibly to look for weapons, but are in fact primarily focussed on wallets and purses. ID has been noted from bank cards, bus tickets, flight bookings, library cards and personal correspondence, despite the fact that none of these resembles any sort of “weapon”. In 2005 the police searched a FITwatch activist who lawfully refused to give his name and address. He was arrested and taken to a police station for suspected theft of his own bank card, obtained by police during the search. He successfully took civil action for unlawful arrest, but his experience is not an isolated one.

#### THE COLLECTION AND COLLATION OF DATA, AND THE USE OF THIS DATA TO TARGET INDIVIDUALS

In the process of legal challenge made by FITwatch activists, serving police (FIT) officers have testified that personal details of political protesters are collated along with photographs and entered onto a national CRIMINT database. This applies equally to individuals with or without criminal records as long as that individual is identified (ie their name has been obtained) by FIT officers. According to one FIT officer, the database contained details of thousands of protesters, and could be searched and cross-referenced to show which demonstrations a particular individual had been recorded at. These admissions formed the basis of a Guardian newspaper report on the protester database, published on 6 March 2009.

Police officers have also given evidence that they frequently target open and public political meetings, at which there is no suggestion that disorder or criminal activity is taking place, in order to gain intelligence on the individuals attending. This intelligence takes the form of a report containing the names and photographs of attendees. Activists frequently complain about the intimidating nature of having a very obvious police photographer, with a large flash camera, parked directly outside a meeting venue, snapping everyone who attends. FIT officers will also go to some lengths to obtain the identity of individuals they have photographed, regardless of the fact they have not committed any unlawful act. This was clearly demonstrated in the civil case of Andrew Wood, a Campaign against the Arms Trade activist, who police attempted to ID from his travel card.

The capability of entering data on a CRIMINT database, combined with the systematic data gathering exercises outlined above, must cause serious concern that the police have gathered, collated and cross-referenced huge amounts of data.

The ability of the ACPO “extremist” units to access or add to the CRIMINT database has been questioned without satisfactory conclusion. The three units NETCU, NPOIU and NDET,<sup>3</sup> run directly by ACPO and therefore not accountable through the usual channels, appear to be involved in collected and collating intelligence on political protest. The extent to which they have access to the ‘protester database’ is not clear, but FITwatch has serious concerns that this unaccountable and technically private organisation has access to this type of data.

#### TARGETTING OF INDIVIDUALS

In 2003 protesters at the DSEI arms fair at Excel obtained a police “spotter card”. This contained thumbnail size images of targets for police surveillance. In some cases, uniformed police were instructed to follow these individuals once they were seen, at a distance of about six feet, for all the time they remained in the protest area. For some this form of surveillance continued for three days, continually, from early in the morning to last thing at night. One commented, “it was horrendous, I was followed into shops, on buses, into coffee shops, even, on the last day, to work! People treated me like I was a criminal. They made notes of who I said hello to, in the end even my friends wouldn’t acknowledge me.”

<sup>3</sup> National Extremism Tactical Co-ordination Unit, National Public Order Intelligence Unit, National Domestic Extremism Team.

Some of the individuals on the sheet had convictions for protest related offences, but many did not. One of them was the Channel 4 comedian and political commentator Mark Thomas.

This example is some years old now, but the tactic continues to be used. Spotter cards are used to enable police officers on the ground to target particular individuals.

The arbitrary nature of the “intelligence” contained on the cards has led to a number of individuals, who have no criminal convictions, suffering what they would term to be serious harassment as a result. One individual, attending an entirely peaceful and lawful protest at an EU summit meeting, was followed by uniformed police officers throughout the day, and after the protest police continued to tail him to (and inside) his grandmothers nursing home. He also had no criminal record.

This sort of behaviour has resulted in people suffering severe anxiety and mental health problems. It has also meant that very many people have been deterred from an involvement in political protest. It is hard to see that policing like this can possibly be in the public interest.

## APPENDIX

### CASE STUDIES ON THE USE OF DATA GATHERING IN POLICE KETTLES

#### GAZA DEMONSTRATION 3 JANUARY

The protest outside the Israeli Embassy on Kensington Road had involved scuffles with the police, apparently sparked by the forcing of the crowd into a physical “pen” consisting of crowd control barriers. By approximately 9pm police had donned riot gear and were carrying shields. They decided to surround and contain what was left of the crowd (many had by this time drifted away) within a “kettle” consisting of riot police. They used their shields to physically push and shove the crowd into as small an area as was possible.

Earlier in the demonstration missiles had been thrown at the police, mainly by groups of youths, most of which had by this time left the area. If the police had intended to use the kettle to identify these individuals, they would have been largely unsuccessful. As is almost always the case, the kettle was arbitrary in nature, detaining and confining predominantly those who had done nothing other than take part in lawful protest.

People were in this case allowed to start leaving the kettle relatively quickly, although it took about two hours before everyone had left. The weather was bitterly cold and arguments had broken out as police officers pushed at people, not allowing them room to move around to keep warm.

Leaving the kettle was conditional on submitting to a body search and on providing a name and address. The police made a point of going through people’s wallets and purses, removed during the search, in order to confirm the details given. At the exit point, where three or four police search teams were operating, a police photographer was taking a close-up still photograph (with a powerful flash) of each individual. A number of Forward Intelligence Team officers, recognisable from the blue flash on their yellow hi-vis jackets, were directing the operation.

Notably a FITwatch activist was ushered through without the same careful search that others were being subjected to. “This individual is known,” stated one of the FIT officers present to the search teams. “There are no issues of identity, so just give her a cursory search and push her through.”

It is at least questionable whether crowd control or data gathering was the primary motive for using the kettle.

#### CITY HALL DEMONSTRATIONS 2 MAY 2007

On 2 May 2007 there were demonstrations outside City Hall in response to the presence of the BNP in the electoral process. A number of political and protest groups were present.

There were no public order incidents, but the police decided to clear the area. Most were shepherded away, but a group of 30–40 who had been to the rear found themselves corralled into a pre-positioned pen made consisting of metal crowd barriers. This pen was then surrounded by police officers. There were a number of people within this group who were under the age of 16.

They were held for one to two hours then given the familiar offer of being allowed to leave subject to a search, photograph and providing details.

A group of about 15–20 individuals declined to give their name and address. A long stand off then ensued, and a rather bizarre scenario in which a small group of protesters were detained in a metal pen, surrounded by police officers, as the area filled with people milling around for the restaurants and bars. By this time there was no danger at all of any disorder, particularly given the young age of many detained.

In the end, after three to four hours, during which FIT officers had been jeering at people detained, the protesters gave in and gave their details. But it was clear at that stage that provision of personal data was the only possible motive for the continued detention.

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CLIMATE CAMP KENT 2007

In effect the entire climate camp, taking place in Hoo, Kent last summer, was “kettled” by police. People were allowed to move in and out of the camp, but only when they agreed to submit to a stop and search, initially under PACE but later under s60 CJPOA 1994.

There were numerous examples of police obtaining ID from searches, or by requiring people to identify themselves in order to reclaim seized items, of which there was a great deal including colouring pens and a board game.

Evidence gatherers filmed at the search points, gaining video footage of almost everyone attending. Other officers were present with stills cameras, again taking photographs of protesters.

Police were not so open about their own ID. FITwatch activists were attempting to take a photograph of an officer not displaying his number when they were arrested for an alleged obstruction of police. Two of them were remanded into custody and spent four days in prison (HMP Bronzefield) until they were granted bail. All charges against them were later discontinued.

May 2009

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**Memorandum submitted by Kirsten Forkert**

POLICE RAID ON RAMPART SOCIAL CENTRE, 15–17 RAMPART STREET, E1 2LA 02/04/09

RampART social centre is a squatted activist space in East London. We were active during the recent G20 protests as an information point and offered meeting spaces and lodging. <http://therampart.wordpress.com/>

Main points:

- we offered to cooperate with their search but they refused
- fired a taser
- assaulted five to six people, punches and kicks to the head, throwing people down the stairs and into walls.
- possibility they didn’t have a proper warrant for the raid (they left us with a document that appears incomplete)
- this raid coincided with a very similar one on the Earl Street convergence space, which happened at almost the exactly the same time, with similar tactics and police violence.

11.00 am

Police started searching anyone entering or leaving RampART under section 60.

11:15 am

A member of the RampART collective was searched on his way into the building and refused to give details. He was told repeatedly that he would be arrested if he didn’t give them the information.

12:15 pm

We could see that the police were escalating their presence (more of them, different uniforms, forming lines), and so one of us went outside to confer with them and to be amenable to their interest in Rampart. He told them that if they produced a warrant we would let them in through the front door, but he was ignored.

12:30 pm

The police raided the building, smashing in the door from the roof and the front door on the ground floor. We were raided by riot police (wearing black, padded uniforms, balaclavas, helmets and carrying riot shields and taser guns). The total police force at RampART seemed to be about 40–60 men and women.

*Ground floor*

The riot cops smashed the door and rushed in. Those of us in the hallway and stairs put up our hands and called out that we were not resisting. Alan was pushed down the stairs, (not far as he was only a few steps up) and then pushed to the wall before the hall doorway, with hands still up and saying “no one is resisting”. He then witnessed a tall young guy with long hair pushed hard down the stairs from the top of the halfway flight. He hit his head quite hard on the hardboard that was leaning against the wall adjacent to the front doorway. Alan called out for the police to take it easy (the young guy had given no resistance whatsoever). The riot cop in front of Alan then whacked him on head with his fist, not particularly hard, but hard enough to knock his spectacles off his head. He told the police officer that he would comply, that no one was resisting here. The riot cop on his other side then tried to knee him in the groin twice, but did not succeed, whilst Alan

repeated the thing about non-resistance and his glasses. Still standing there, the riot cop to his left grabbed the back of Alan's head and forced it forward, whilst the one in front tried to knee him in the face, all still with his right arm extended upwards holding his glasses.

The riot cop holding the back of his head then threw Alan through the main hall doorway and then again down onto the ground. Another guy with dreads who was standing in the main hall was thrown to the ground right next to Alan. Alan kept asking the riot cop arresting him to take his glasses to put them somewhere safe, but he seemed a bit confused by his behaviour and instead kneeled on his upper back and then the back of his neck. He lost grip of his glasses and was cuffed.

#### *First floor*

Police kicked in the door to Ben's room and fired a taser gun at him. He dove out of the way. Two cops jumped on him, punched him in the face, kneeled him in the back and kicked in the back of his head twice, all the while constantly shouting and screaming that he was "an anarchist cunt." He was taken to the next door room where there were other people. An officer from the oracle unit num "hf 915" looked at them all and singled Ben out for arrest for criminal violence and damage.

#### *Second floor*

There were seven people on the second floor, five in one room and two others in another room. The room with five people was near the stairs to the roof. People were seated around a table having coffee. The police smashed down the door and a cop stormed in pointing a taser gun at us and screaming "get down!", "get down!" Peter witnessed a cop punch Paolo on the left side of his face.

G asked "What is this for?" A police officer replied "For yesterday" (April 1 G20 protests) and then explained we were not under arrest but just detained. D was told that they were looking for "people involved in the incidents at Bishopsgate the day before" and that they had "intelligence" that they were in the building in Rampart Street.

At one point, D heard a cop radio that there were two women in the room. One female officer turned up and attended to one of the women. The other woman was guarded by a man but later searched by the woman.

#### *All floors*

Everyone was hand cuffed with a mix of plastic strap cuffs and actual handcuffs. The police asked for our details. We were detained for about 1.5 hours. It was scary and humiliating. The police "banter" throughout was derogatory. At one point, D caught snatches of a conversation in which they were implying that they were pleased that a demonstrator had died during the protests the previous day. We were filmed and photographed front and back, with attention to our footwear.

#### *2.00 pm*

Police leave RampART after arresting three to four people (Ben, Dennis, Matt Lygate, others?), all of whom were released 10–12 hours afterwards. Police confiscated their clothes. It appears as though no charges were laid as a result of this raid.

#### *May 2009*

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### **Memorandum submitted by Maria Gallastegui**

I welcome the opportunity to put on record the view of someone who has demonstrated in Parliament Square prior to and since the law to restrict protest around Parliament under the Serious Organised Crime and Police Act first came into force in 2005.

I have also been present in Parliament Square for the duration of the Tamil protests since early April 2009.

#### **RESTRICTIONS ON PROTEST AROUND PARLIAMENT**

Like most people, I did not embrace SOCPA when it was first introduced. I value the freedom to self express and demonstrate without restrictions or hindrance. When the idea came that we would have to ask for permission, and fill in a form with details of whom, where and when, etc, it seemed that hard won rights were being given away by the Government, which made a law suppressing the voice of people who it is supposed to represent and defend.

My feelings have always been that Parliament did not wish that the new law criminalise individuals who wished to peacefully express their valid opinion on some issue that distressed them, for whatever reason. However, it is precisely these very people that have been arrested, and put through the court system. Sadly, many now have a criminal record for "Serious Organised Crime". From this point of view the law has been embarrassing to all concerned and a huge waste of police resources and public money. It has also had the effect of alienating groups within our society from demonstrating.

The ordinary “Bobby on the beat” should never have been asked to arrest anyone for demonstrating peacefully. Because the law states that the person must have “authorisation”, a situation often becomes far more complex than necessary with long-lasting consequences.

I myself have had authorisation for demonstrations but I see that the SOCPA legislation creates the opportunity for too much political interference and bad communication and elaborate paperwork leads to delayed decision making. Sometimes the police seem to need arrests, and other times they want to avoid arrests, in what appears to be a politically biased way.

#### THE TAMIL PROTESTS

In my opinion the month long protests by the British Tamil community have been ground breaking and demonstrate that the SOCPA restrictions are not necessary and even fail in such circumstances.

The Tamils did not have “authorisation” for their demonstration but they did have “Genocide” and they were not going to be persuaded to leave the Square while their families were being killed. Their continued presence in Parliament Square shows that legislation cannot under any circumstances “trump” such an emergency.

This protest has proved that, so long as people remain peaceful and keep to their objective, everyone, including the police, can share in, and empathise with, their concerns. The Tamil community have captured and held the moral high-ground with their extraordinary patience, determination and dedication to the cause. They all have relatives and friends caught up in the conflict, many of whom have been killed, maimed or tortured.

They were forced off the grass during the Easter Recess in an uncharitable act by the Greater London Assembly. However they were not to be put off coming to the Square. They blockaded Westminster Bridge and the road on three separate occasions in their desperate attempt to be heard.

At the beginning of the Tamil demonstrations a small child had her arm broken due to heavy policing to remove protesters. However, over the longer period there has been a high level of co-operation and understanding between the Tamil protesters and the police. Common sense seems to have prevailed. This has allowed the Tamils to express their suffering without repression—that is their right.

*May 2009*

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#### Supplementary memorandum submitted by Dr Peter Harbour

##### 1. PREAMBLE

In evidence statement [1], 15 December 2008, I described my experience with an injunction (Radley Lakes injunction by RWE npower) served, using the Protection from Harassment Act 1997. This injunction stifled legitimate protest.

I suggested there should be a first hearing, either with the police or with a lower court, before a case under the PfH act 1997 be brought to the High Court. The aim was to avoid, in the first instance, the crippling cost (or fear of costs) which prevent justice from being done at present. The injunction was heard in secret, without notification, using anonymous witnesses.

The Committee’s response was [2]

99. ...we are concerned that the Protection from Harassment Act 1997 (... not designed to deal with protestors ...) has the potential for overbroad and disproportionate application. We do not consider that...there is any pressing need for applications against protestors to be made without providing the possibility for protestors to make representations on the proposed injunction. ... given the potential risk of substantial costs ...
100. We recommend that ...applications for injunctions relating to protest activities may not be made without notice being given to any individuals or organisations named on the application...ensuring that injunctions against protestors are necessary and proportionate within the context of the rights to freedom of speech and peaceful assembly.

While the Committee’s recommendations, if adopted by the government, reduce problems of legitimate protestors, they do not go far enough. Interestingly, however, they open a way in law to make it clear that there is a legal distinction between protestors and stalkers. The PfH Act 1997 was designed to deal with stalkers, not protestors. I will argue that the Act should be redrafted to focus on its original purpose.

Protestors should, if necessary, be dealt with under other existing laws, which are restrictive enough. Violent and intimidatory protest contravenes several laws, so it is doubtful whether the PfH Act 1997 is needed at all to control protest. Even so, companies use the act to stifle legitimate protest.

During the six months since my memorandum [1] a number of events has taken place, strengthening this argument.

## 2. RECENT DEVELOPMENTS

17:12:2008: Power company, RWE npower announced it no longer needs Thrupp Lake for ash disposal. The lake is saved, due to adoption of an alternative, sought by the Save Radley Lakes campaign, an endorsement of a legitimate campaign, if ever there was one.

23:12:2008: George Monbiot examines claims by NETCU (see [1]) that I am a domestic extremist, concluding the police demonise peaceful protest [3].

23:12:2008: NETCU website is “closed for maintenance until the New Year.” It re-opened 22nd May, *q.v.*

13:1:2009: RWE npower injunction is ended. A consent order is sealed by the Court. The proceedings against me have ended. The injunction is discharged.

13:2:2009: Monbiot confirms NETCU’s website shut down immediately after [3] was published, later being partially restored. The “Confidential Intelligence Unit” will continue NETCU’s role, demonising peaceful protest [4].

7:5:2009: BBC Radio 4 describes my story [5]. Assistant Chief Constable Anton Setchell claims that although my name is on the NETCU website it doesn’t necessarily mean I am considered a domestic extremist. “I could understand the concern about someone having their name there but I don’t think their character would be tarnished because of it” (but see contradiction in next item). Note: BBC Panorama will follow this up later in June.

22:5:2009: NETCU website restored, now featuring the police pocket guide [6] referred to in [1]. The booklet retains the sentence, p.51, “High Court Injunctions that relate to domestic extremism campaigns are listed on the NETCU website. [www.netcu.org.uk](http://www.netcu.org.uk)”, which had been identified [1,3] as branding me and the Save Radley Lakes campaign as “domestic extremist”.

## 3. FURTHER DETAILS

When I submitted my evidence [1] the injunction upon me was still in place but negotiations were underway to end it. I was inhibited from making any statement which might have prejudiced these.

I can now state that it was (without notification) alleged in the High Court by anonymous absent witnesses, who were allowed by the court to remain anonymous, that I assaulted a security guard by driving my van into him, a criminal accusation of an event alleged to have taken place at half past midnight. I assert that this did not happen. At 12.30am I had been at my computer for over an hour sending emails and I continued at my computer for the next hour. There is detailed documentation that the allegation was incorrect, and a credible witness supports this. Notwithstanding, this allegation was not merely made when the injunction was first brought to court in February 2007, but in April 2007 the evidence was relayed uncritically (from npower’s security staff) to the Court by a Chief Inspector of Thames Valley Police, Silver Commander for the Radley Lakes protest [7]. His action was justified by TVP’s Chief Constable, (letter dated 21.05.07):

“...The judgement states ‘there is reason to believe drove his car (*sic*) at two employees of the First Claimant’s contractors...’”.

She went on to write

“In relation to the deposition by Chief Inspector (name given) in relation to this incident, its affect on the application was merely to confirm that this incident, along with a number of others, had been reported to the police...”

But please read a contradictory statement in [8].

The chief constable continued...

“In terms of redress for Peter Harbour, paragraph 10 of the application submitted by Npower states that ‘The parties and any other person affected by this Order may apply to the Court at any time to vary or discharge this Order ...’ This would appear to offer a way forward for Peter, in terms of taking steps to negotiate his removal from the injunction.”

## 4. SUMMARY OF FURTHER DETAILS WITH COMMENTS

- In a civil court I was accused, without notification, and anonymously, of a criminal assault, which did not occur, using my vehicle.
- The PfH Act 1997 allows an accusation to be so made, and this is wrong, bringing the law into disrepute.
- Senior police endorse the accusation, despite official records showing no evidence that such an event occurred, and despite the duty of the Silver Commander to provide impartial policing and to facilitate normal protest.
- The Chief Constable appears content with this, not querying lack of balance in policing.

In fact the Chief Constable compounded the situation, saying there was a way forward for me to take steps to remove myself from the injunction. I say this because she seems blissfully unaware that, had I moved to contest the evidence, this would have triggered my being exposed to fearsome costs and that these costs might be at a multiple because several of the defendants were applying for legal aid [9].

## 5. CONCLUSION

- Under the PfH Act 1997 it is demonstrated that an injunction can be obtained, stifling legitimate protest, on the basis (*inter alia*) of an incorrect criminal accusation, and that the police, in court, can support such an accusation by hearsay, despite it contradicting their official records, and without investigating the facts of the case. Police action can further compound the situation by branding the protestors “domestic extremists”, in a manner which on the face of it appears defamatory.
- This committee has distinguished protestors from stalkers, the intended subject of the PfH Act 1997, and this prepares for the following way forward.
- The Act should be retained exclusively for dealing with stalkers and be redrafted so it cannot be used (or misused) against protestors, whose actions can be scrutinised in the light of other laws.
- Policing of protest appears to have been neither balanced, nor proportionate.

## REFERENCES

- [1] Memorandum submitted by Dr Peter Harbour, [www.publications.parliament.uk/pa/jt200809/jtselect/jtrights/47/47we33.htm#n48](http://www.publications.parliament.uk/pa/jt200809/jtselect/jtrights/47/47we33.htm#n48)
- [2] Paragraphs 96–100 of [www.publications.parliament.uk/pa/jt200809/jtselect/jtrights/47/4707.htm#n165](http://www.publications.parliament.uk/pa/jt200809/jtselect/jtrights/47/4707.htm#n165)
- [3] [www.guardian.co.uk/commentisfree/2008/dec/23/activists-conservation-police](http://www.guardian.co.uk/commentisfree/2008/dec/23/activists-conservation-police)
- [4] [www.guardian.co.uk/environment/georgemonbiot/2009/feb/13/george-monbiot-police-protestors](http://www.guardian.co.uk/environment/georgemonbiot/2009/feb/13/george-monbiot-police-protestors) . See also Henry Porter in [www.guardian.co.uk/commentisfree/henryporter/2009/feb/10/police-civil-liberties](http://www.guardian.co.uk/commentisfree/henryporter/2009/feb/10/police-civil-liberties)
- [5] The Report, BBC Radio 4, 8 pm 07.05.09, The Policing of Protest [www.bbc.co.uk/iplayer/console/b00k4g57](http://www.bbc.co.uk/iplayer/console/b00k4g57)
- [6] [www.netcu.org.uk/downloads/guidance/PPocketguide.pdf](http://www.netcu.org.uk/downloads/guidance/PPocketguide.pdf)
- [7] I reported in [1] that the first duty of this Silver Commander was “to provide impartial policing services that facilitate lawful protest”, and yet in April 2007 he had provided no service to the Save Radley Lakes group at all, not even introducing himself. I ask the committee to decide whether the service was “impartial” or whether he appeared to be acting for a large company.
- [8] I received a letter from Thames Valley Police Accident Records (2.04.07) stating “A search of police accident records has failed to trace the collision to which you refer ... for the dates 10 February–12 February 2007.”
- [9] I recollect that, before granting legal aid, the board asked (unsuccessfully) the Save Radley Lakes campaign to pay costs of those seeking support, even though the other defendants (excluding me) did not live locally and were not members of the campaign.

### Further supplementary memorandum submitted by Dr Peter Harbour

1. By chance I was in London on the morning of the Wednesday of the G20 week and had to travel from the British Museum to the Isle of Dogs. Prior to my visit I telephoned the metropolitan police for advice and I also visited their website. There was no advice in the hotels. I required the advice because I had to escort two elderly relatives who were visiting London from abroad. There was no advice whatsoever on the Met’s website suggesting whether the banks and the square mile would best be avoided. The sole web advice on demonstrations concerned the planned march from the US Embassy to Trafalgar Square and the timing of various road closures. It proved exceedingly difficult to obtain explicit information by using search engines such as Google, nor was it possible using the BBC website. That is why, after wasting an hour, I eventually telephoned the Met and asked for explicit advice. The advice was duly given and was clear and effective. In closing the conversation we touched on how easy it is to become caught up in such a demonstration as was predicted. “To be frank, said the sergeant, the people in the front rows are just cannon fodder!” I thanked him for his advice, but I was shocked to think that his view, as a police officer delegated to advise the public, was that the police saw fit to view people in close proximity to the police lines as legitimate if unfortunate victims. And this was even though he was clearly aware that our conversation indicated that it would be easy to be caught up in the demonstrations by accident, as indeed my elderly relatives and I would have been had I taken the route I had originally intended to take. Thus it was expected (or it should have been expected) that people might accidentally find themselves caught up in a demonstration, but should they find themselves in the front line they would be considered “cannon fodder”. Looking back, I realise that the police had hyped up the expected clashes but had made no proper effort to use their website or the BBC website to advise people how to avoid problems and be safe. The police had failed in their duty to the public.

2. I have viewed a large number of photographs taken (by someone unwilling to submit evidence) during the G20 demonstrations on the same day. After viewing perhaps 100 photographs of front line police officers, I was struck by the very small numbers of badge numbers in view. Possibly only one in ten police officers displayed ID. There seemed little difference between ordinary police or more specialised ones. I report these observations because I have read some of the recent submissions to the Committee and there appeared to be grounds for interpretation of the reliability of people's recollections, and therefore grounds for doubt. There was no doubt that these photographs, viewed one after another, showed that ID was hidden as a general rule.

June 2009

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### Memorandum submitted by the Independent Police Complaints Commission (IPCC)

#### SUMMARY

The Independent Police Complaints Commission (IPCC) welcomes the report published by the Joint Committee on Human Rights, entitled "*Demonstrating respect for rights? A human rights approach to policing protest*", and the opportunity to provide supplementary evidence to the Committee on Policing Protests in advance of the oral hearing scheduled for 12 May 2009.

The IPCC has called for a public debate on policing protests. This submission sets out the complaints arising from the G20 protests and other recent public order events in the context of the complaints system as a whole and identifies some initial emerging themes. Nothing in this submission should be taken as a judgement on the conduct of individual officers for matters which are still under investigation.

#### THE INDEPENDENT POLICE COMPLAINTS COMMISSION (IPCC)

1. The Independent Police Complaints Commission (IPCC) was established by the Police Reform Act (2002) and began work on 1 April 2004. Its statutory purpose is to increase public confidence in the police complaints system in England and Wales.<sup>4</sup> The IPCC makes its decisions independently of the police, government, interest groups and individuals. IPCC Commissioners must not have worked for the police service in any capacity. "Respect for human rights" is an explicit IPCC core value. The IPCC endeavours to carry its work out to applicable human rights standards and aims to ensure effective remedies for individuals whose rights have been breached.

2. The IPCC's statutory remit includes:

- *Complaints* about the conduct of individual police officers;
- *Recordable conduct matters* even if no complaint has been made;
- *Deaths and serious injury* following police contact whether or not a complaint has been made or misconduct alleged.

"Direction and control" matters and quality of service issues are outside the IPCC's statutory remit.

3. Complaints may be made directly to the IPCC or to the force concerned. All complaints must be recorded by the police force or police authority concerned who must then refer to the IPCC any matter involving a death or serious injury following police contact or any serious criminal offence whichever way that matter is raised. In addition, the police may voluntarily refer other cases to the IPCC and the IPCC can itself "call in" any matter within its remit.

4. When a case is referred to the IPCC, the IPCC will decide on the mode of investigation from the following options:

- *IPCC independent investigation*—conducted by IPCC Investigators, who have all the powers of a police constable.
- *IPCC managed investigation*—conducted by the police, but under the direction and control of the IPCC.
- *IPCC supervised investigation*—conducted by the police under police direction and control in accordance with terms of reference set by and reporting to the IPCC.
- *Locally investigated by the police themselves.*

5. The decision on mode of investigation will be objectively based on a range of factors including:

- The known evidence and information—this will often be supported by a formal initial scene assessment conducted by the IPCC.
- ECHR engagement and any consequent requirement for an independent investigation.
- The relative seriousness of the case.

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<sup>4</sup> The IPCC's remit also includes staff from HMRC, SOCA and certain members of staff from the UK Borders Agency.



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- The level of public interest in the case and/or impact on public confidence in policing.
  - The availability of IPCC resources.
6. Following an independent or managed investigation, the IPCC may:
- refer the matter to the Crown Prosecution Service to consider any criminal charges;
  - refer the matter to the appropriate disciplinary authority with recommendation for disciplinary proceedings to be taken; or
  - make recommendations for operational learning to the force or other relevant local or national body.

Where a force does not accept the IPCC disciplinary recommendations, the IPCC can require a disciplinary tribunal to be convened.

The IPCC does not determine the outcome of any disciplinary or criminal tribunal and does not determine any penalty.

Where a death has occurred, the IPCC will assist the coroner with and provide evidence to any subsequent inquest.

7. The IPCC sets statutory complaint handling standards that the police must follow. Where a complainant objects to a force's decision not to record a complaint or objects to the outcome of a local or supervised investigation, they may appeal to the IPCC.

8. The IPCC has an income of approximately £36 million<sup>5</sup> and employs about 400 staff of whom about 120 are investigators.

9. In 2008–09, the IPCC:
- received 2,445 referrals;
  - carried out 189 assessments;<sup>6</sup>
  - began 106 independent investigations;
  - began 117 managed investigations;
  - began 167 supervised investigations; and
  - received 4,634 appeals.

#### POLICE COMPLAINTS STATISTICS 2007–08

10. In 2007–08 there were:<sup>7</sup>
- 28,963 recorded complaints cases which represents an increase of 83% since 2004;
  - Of the 48,280 allegations contained in these complaint cases:
    - 21,770 (48%) concerned incivility, politeness or intolerance, or minor neglect of duty;
    - 7,385 (15%) concerned some form of physical assault, including very serious assault or sexual assault;
    - 3,174 (7%) concerned oppressive conduct or harassment.
11. 44 cases referred to the IPCC in 2007/8 involved public order incidents.

#### COMPLAINTS ARISING FROM RECENT PROTESTS

##### G20

12. As of 6 May 2009, the IPCC had received a total of 262 direct complaints relating to the G20 protests:
- 122 appear to be related to conduct matters from individuals who allege they experienced or witnessed police misconduct (largely allegations of assault);
  - 76 appear to be related to direction and control matters. These appear to be outside the IPCC's remit; and
  - 64 appear to be from people who have been concerned by what they have seen on the television or other media. These appear to be outside the IPCC's remit.

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<sup>5</sup> For 2009–10 financial year.

<sup>6</sup> Part year figures. Formal scene assessment began in September 2008.

<sup>7</sup> IPCC: "Police Complaints; Statistics for England and Wales 2007–08". Statistics for 2008–09 will be published in September 2009.

13. Her Majesty's Inspectorate of Constabulary (HMIC) is carrying out a review of the police tactics and overall strategy for the G20 protests at the request of the Metropolitan Police Commissioner. The IPCC is liaising closely with HMIC so that they can consider the complaints that are outside the IPCC's remit as part of their review.

14. The IPCC is carrying out four independent investigations into allegations arising from the G20 protests. This includes the criminal investigation into the possible manslaughter of Ian Tomlinson.

#### *Tamil Protest in Parliament Square*

15. As of 6 May 2009, the IPCC has received five direct complaints regarding the Tamil protests in Parliament Square. Two allege assault and incivility, two allege a failure by the police to deal with the demonstration sufficiently robustly and one alleges oppressive conduct. The IPCC does not currently have information about how many complaints were made directly to the police about this matter.

#### *Iona Independent School, Nottingham*

16. As of 6 May 2009, the IPCC had not received any direct complaints relating to this incident. The IPCC does not currently have information about how many complaints, if any, were made directly to the police about this matter.

#### *Hunting Demonstration, Parliament Square, 15 September 2004*

17. For comparison, at a similar stage in the aftermath of the pro-hunting demonstration in Parliament Square in September 2004, the IPCC had received approximately 450 complaints.

18. Following the IPCC investigation, six officers were summonsed. Three were acquitted and the CPS discontinued proceedings against the remaining three. The IPCC required a disciplinary tribunal to be convened against two officers; both were acquitted.

19. The IPCC made a number of operational recommendations following its investigation. These included:

- officers should be publicly identifiable at all times;
- evidence should be preserved when batons have been used; and
- a review of the tactical options available to police when subject to attack 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 equipments now available.

#### RECOMMENDATIONS ON POLICING PROTESTS

20. The IPCC welcomes the JCHR's recommendations:

- to amend section 5 of the Public Order Act to remove the reference to "insulting words or behaviour"; and
- for appropriate human rights training for officers involved in policing protests at all levels.

#### *Section 44 Terrorism Act 2000*

21. The IPCC also welcomes the JCHR's recommendation that counter-terrorism powers should not be used against peaceful protesters. The IPCC has wider concerns about the use of stop and search in general and Section 44 in particular. The IPCC believes that the use of stop and search should meet the following criteria:

- Fairness.
- Effectiveness.
- Carries public confidence.

#### *Photography*

22. The Committee notes that the Terrorism Act 2000 does not prevent people from taking photographs or digital images. The IPCC welcomes and values information supplied by modern media/"citizen journalism" which has been important evidence for IPCC enquiries and investigations.

#### *Tasers*

23. The IPCC strongly supports the Committee's view on the use of tasers. Guidance issued by the Association of Chief Police Officers, clearly states that taser use is not intended for public order policing and never against peaceful protesters. The IPCC has recently announced it will require all complaints relating to the use of taser to be referred to it.

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EMERGING ISSUES

24. IPCC investigations into G20 are ongoing and it is therefore cautious about drawing premature conclusions.

25. The following emerging issues have however been identified from the complaints arising from the G20 protests:

*Officer Identification*

26. There have been serious concerns that some officers who have appeared in footage of the G20 protests appear to have removed their identification numbers. The IPCC will regard this as a disciplinary matter in any investigation it undertakes and will also consider the conduct of any supervising officer who was aware of this occurring but took no action to prevent it. Police forces should urgently reinforce the requirement that other than in exceptional, specified circumstances, officers are required to be identifiable at all times.

*Front line supervision*

27. The Committee and the IPCC itself, in previous investigations, has noted the importance of training and front line supervision. Front line supervision is a concern in many IPCC investigations. The IPCC will consider whether the front line supervision of officers at the G20 protests was sufficiently robust and intrusive in the context of the very challenging situation with which many officers were confronted.

*Public Debate and Understanding*

28. The IPCC will examine the conduct of individual officers and may make operational recommendations arising from its investigations. The HMIC review of policing at G20 will consider the tactics and strategy used. Both of these will take place within the constraints of the law as it currently stands.

29. The IPCC therefore welcomes the JCHR's consideration of how the conflicting interests of those involved in and affected by demonstrations should be balanced. The IPCC believes there should be a broader public debate about where, within the applicable human rights standards, the balance between security and liberty should be struck and what expectations we should have of how individual officers use their powers in public order situations.

May 2009

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**Further memorandum submitted by Nick Hardwick, Chair, Independent Police Complaints Commission, IPCC**

Thank you for allowing me the opportunity to provide evidence to the Joint Committee on Human Rights this week and for the constructive discussion that took place.

I had anticipated that I would share with the Committee the up to date figures relating to complaints and investigations arising from G20. The opportunity to do this did not arise so I have provided them for your information below:

As of close yesterday, 269 complaints have been received by the IPCC. Of these 78 relate to direction and control issues/police tactics—these do not fall within the remit of the IPCC and will be passed to HMIC to help inform their review. 127 relate to the use of force and have been received by those who allege to be both victims and witnesses. 64 are non eligible under the Police Reform Act 2002 (are predominantly from individuals complaining after seeing media footage).

All of the 127 complaints which are eligible have been forwarded to the Metropolitan Police Service (MPS) for recording with the agreement that any complaint which alleges excessive force with reported injuries, where the injured party can be identified, should be referred back to the IPCC.

So far we have received 27 such referrals. Of these, four are being independently investigated. The remaining 23 are being investigated by the appropriate authority (ie whichever force the officer under investigation works for), under the supervision of the IPCC. In all of these supervised cases, complainants will have a right of appeal to the IPCC if they do not believe the investigation has been completed appropriately.

These numbers have still not reached a static state so may be subject to change over the next few weeks.

We will today announce a fifth independent investigation which will focus on the Metropolitan Police Service (MPS) and City of London Police media handling of the case of Ian Tomlinson in the first week after his death. This investigation will be separate from that looking at the circumstances of Mr Tomlinson's death, to ensure that resources are not diverted from the criminal investigation that is now taking place.

I hope that this information is helpful, please do feel free to share it with the Committee as you feel appropriate.

14 May 2009

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### Memorandum submitted by Sarah Lasenby

I have a broken arm so typing is a bit labourious but I feel you should have some information about Thames Valley Police and Trident Ploughshares' experiences, a movement I belong to. On several occasions I have acted as police liaison with Thames Valley Police and the MOD Police.

Despite being a dedicatedly non-violent direct action organisation we have experienced aggressive and violent policing from TVP and the Hampshire and MOD forces who have been briefed by them. Some years ago this resulted in the very aggressive use of pressure points in Newbury Police Station resulting in a man being hospitalized for two days and having his face paralyzed for six months.

TP has experience of other police forces—in particular Strathclyde and Devon and Cornwall where we find in general very appropriate policing. Strathclyde, a force with a hard to police city, could be a very good example for other forces. We would recommend their practise is looked at.

Last year I was police liaison for a planned blocked of AWE Aldermaston in Oct. I was very concerned by the aggression shown by police and the unnecessary use of pressure points. I have complained to TVP and they are responding very helpfully.

Below are some examples of the policing we experienced:

*"In general I was pleased that the Blockade on 27th was not over policed, as they have been before. There were a number of places where the officers behaved very appropriately as you will see from the reports below:*

*The violent and aggressive behaviour did not involve all the police officers present but it occurred in several places. Personally saw what I consider a serious incident. Thankfully none of the protesters was hurt but an atmosphere of aggression and bad feelings resulted. If it were not that I and many of the activists present were accustomed to a very different kind of policing we might accept this behaviour and roughness. But we know that another way is possible.*

*I saw what appeared to a culture of "being rough" that was seen as a norm by the forces that were doing the policing at the Blockade.*

*The way any police behave has a direct impact on how "policing by consent" and democracy functions.*

*We also experienced the police using intimidation particularly the use of cameras. Why is it necessary to try to intimidate people? filming etc.*

*Insp Farmer and I also talked about the need or not of using a Sec14. I was very pleased he did not implement Sec 14 This is never used at other TP blockades. I had suggested it was better to avoid it as it only tends to aggravate people.*

*During the liaison I made it clear that the use of pressure points and of only two officers dragging protesters off the road or police shouting aggressively, are all things we do not experience when we demonstrate elsewhere. I was therefore shocked when I experienced the use of pressure points on peaceful protesters. It may be lawful but it is aggressive to use pressure points with completely non aggressive protesters.*

*When I was standing near the Main Gate I heard some screaming from pressure points being applied to people, mostly young, who were sitting on the A340 trying to block it. I rushed into the road shouting at the police to stop using pressure points and trying to see what was happening. The police were being very rough, one young man had his arm very roughly yanked behind his back. I cannot think why this should have been necessary? Then I was shouted at to get back on the path and pushed very roughly, despite having my arm in plaster. There was a lot of pushing, shoving and shouting. Many people were complaining about what was happening.*

*When I next saw the liaison officer I asked him why the police were being so aggressive. He replied 'what do you mean aggressive?'. He seemed genuinely surprised.*

*Appendix 4 contains the reports I have received from some of the people who were at the Blockade*  
*John Robb—Plymouth*

*In general, I found the Police to be quite friendly and considerate, though there were one or two examples of "over-zealousness" for want of a better word. There were a couple of Officers at Tadley Gate who were not particularly friendly, polite, or restrained. One was a female officer on horseback, who was very stern-faced, and who used the horse to frighten and intimidate people, in stark contrast to the other horse-mounted officer. Also there was a FIT team member who was often pushing people about quite severely. At one point I politely asked if we could pose for one another's cameras and he*

*physically pushed me from the pavement onto the road. Not a pleasant individual at all. I may or may not have pictures and numbers for these officers on my phone, but as yet I have not figured out how to get them from my phone to my laptop.*

*Also, near Falcon Gate, I was there when pressure points were being used on people. Certainly I have film on my phone of the predominantly male Police Officers removing those blocking the road, and one can hear their screams of pain quite clearly. There was a large, but unheeded call, for female officers.*

*John Robb*

*Lyn Bliss—UK and Portugal*

*I only have experience of the one very rude police officer at Tadley Gate..... I told the officer very nicely that we were usually allowed a legal observer to just watch what happened. He just snapped back at "Not today you're not!" and then started to walk away. I called him back to ask if we could at least stand a little closer as we could not see who was being arrested and could ask their names. He spoke rudely and said they might not want us to know their names.*

*Anyway I hope you get some joy from the police about recognising their bad behaviour.*

*Lyn Bliss*

*From Angie Zelter—Norfolk*

*Dear All, I am really sorry to hear that the police were badly behaved with most of you but really need to let you know that we had superb policing. When we started at 5.15a.m. on the A340 road near to Home Office Gate just by the roundabout. There were no police and by the time we had our really heavy concrete lockons most of us were already in the lock-ons and we greeted the Hampshire police very politely and enthusiastically and they were fine.*

*I now realise the picture at our place was a little more complicated than I thought as apparently after the first six were taken away a new chief guy with red epaulets came on duty and they started cutting into the other big concrete lock-on with three people in it. The atmosphere changed. The police on the ground were not happy with the change in atmosphere but could do little as they were under orders. They immediately shooed all support people away and were much more aggressive in their attitude, but the cutting team remained professional at all times. So, it is basically up to the head chief at the time.*

*In the light of these complaints I can say they do nothing for the reputation of the police—many younger people I know want to have nothing to do with them. This needs to change.*

May 2009

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### Memorandum submitted by Paul Lewis, The Guardian

#### INTRODUCTION

1. In the aftermath of the G20 protests, the Guardian investigated the death of Ian Tomlinson, a 47-year-old newspaper vendor who, it is now known, had been attempting to walk home from work when he was confronted by police cordons at the G20 protests. Initially the newspaper published photographs of Mr Tomlinson at the feet of riot officers and statements from witnesses who said they had seen police assault him. On Tuesday 7 April the Guardian released a video showing the police attack, shot by a New York fund manager. The Guardian handed the footage, and a dossier evidence that contradicted police accounts of Mr Tomlinson's death, to the Independent Police Complaints Commission (IPCC), which launched a criminal investigation.<sup>8</sup>

2. The fallout from Mr Tomlinson's death sparked a broader public debate about the policing of protest. In this context, I was contacted by protesters, bystanders and journalists with concerns about the actions of police during the G20. Some had recorded G20 policing incidents on their mobile phones and cameras, and the committee has been shown a selection of that footage.<sup>9</sup> I have also investigated how police routinely place peaceful protesters under surveillance, store their details on databases, attempt to recruit informants from within their groups and share secret intelligence about them with private companies.

3. The Metropolitan Police Service (MPS) has said there were mistakes by a small minority of its officers at G20 protests, but defended the actions of the vast majority of officers and the tactics they were ordered to implement.<sup>10</sup> However there is evidence that may suggest that the 256 complaints received by the IPCC about police at the G20 do not solely relate to "bad apple" officers,<sup>11</sup> but could equally be attributed to strategic decisions and policies set by senior officers. Indeed, at the request of MPS Commissioner Sir Paul Stephenson, there is currently a review of public order tactics by Her Majesty's Inspectorate of Constabulary (HMIC).

<sup>8</sup> See <http://www.guardian.co.uk/uk/2009/apr/07/ian-tomlinson-g20-death-video>

<sup>9</sup> See <http://www.guardian.co.uk/politics/2009/apr/21/g20-protest-video-police>

<sup>10</sup> Metropolitan Police Authority Hearing, April 30 2009

<sup>11</sup> See <http://www.guardian.co.uk/commentisfree/2009/apr/08/ian-tomlinson-police-g20-protests>

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#### POLICE BRIEFINGS AHEAD OF THE DEMONSTRATIONS

4. The MPS gave several briefings to reporters about the G20 demonstrations, both on and off the record, and was subsequently criticised for ramping-up the threat posed by what, in the end, were largely peaceful protesters. The MPS has responded it was “always measured” when briefing the press and, for its part, has blamed media “hype” and “exaggeration” for distorting concerns about potential disorder. The MPS has provided me with its on the record transcripts from four G20 briefings to reporters, which I have attached to the annex.

5. Six weeks before the G20 protests, the Guardian published a story about the concerns of the MPS’s Superintendent David Hartshorn. In an interview, he warned the recession would spark potential civil unrest, with known troublemaker activists from past protest groups returning to the frame, “intent on coming on to the streets to create public disorder”. He added: “We’ve got the G20 coming up and I think that is being advertised on some of the sites as the highlight of what they see as a ‘summer of rage’.”<sup>12</sup>

6. On 20 March, Commander Broadhurst, who led the operation, told reporters of the possibility that protesters might storm buildings, damage property and bring large areas of London to a standstill, “causing chaos around the city”. He pointed to the return of individuals involved anarchist groups from the late 1990s such as, he said, Reclaim The Streets and the Wombles. “We are seeing unprecedented planning among protest groups. Some of the groups of the late 90s are coming back to the fore and there is a coming together of anarchists, anti-globalisation groups and environmentalists. They are plotting and planning what they are going to do and the picture is changing almost every minute. They have some very clever people and their intention on April 1 is to stop the City.” He added: “These are very innovative people, we have to be as innovative, we will be having a day next week where I will sit down and challenge my officers to think as blue-sky as they can about what do you think these people might try and do and we will have something hopefully to mitigate and stop that. They undoubtedly will be thinking what will the police tactics be and how can we work around those. So it will be an exciting couple of days to say the least.”

7. Commander Simon O’Brien said in the likely event of trouble: “We are up to it and up for it”. In his March 26 briefing, he told reporters: “G20 is certainly attracting a significant amount of interest from protest groups, and there is almost an unprecedented level of activity going on. We are seeing the return of some old faces, people we have not seen on the protest circuit in London for some years. We believe that some protesters and groups see G20 as an opportunity to galvanise support for the protest scene in London.” City of London police advised companies to tell their staff to “dress down” to avoid attack.

8. Before the demonstrations I met with members of all the main protest groups, as well individual anarchists involved in organisations, including the Wombles, in the 1990s. They did not appear to pose any serious threat. Many were amused that theatrical protest slogans on their websites such as “storm the banks” and “lynch the bankers” were being taken seriously by police. The two main organisers, G20 Meltdown and Climate Camp, told me they were willing to talk to police about their plans, but said they had not been contacted by officers. Contact telephone numbers and email addresses were posted clearly on their websites. On the eve of the protests, the Guardian ran a front-page story reporting the growing concern among protesters and MPs that police were unnecessarily “talking-up” the prospects of violent disorder.<sup>13</sup>

#### INCIDENTS DURING THE PROTESTS

9. I reported from the protests for 14 hours on 1 April. At 11am, I witnessed the first attempts by police to contain protesters in a “kettle” at Liverpool Street. I watched this tactic used on several thousand protesters throughout the day around the Bank of England and later at the Climate Camp protest, in Bishopsgate, until left at 1am the following morning. Protesters, bystanders, MPs, lawyers, journalists, and city workers told me they had been trapped inside cordons for hours. A common complaint was there was no access to water.

10. Protesters were on the whole peaceful, although there were exceptions. I witnessed the violent attack on an unguarded branch of Royal Bank of Scotland by around twenty people. At this time I estimated there were a further 100 protesters apparently intent on goading police into confrontations. These individuals threw bottles, fruit, flour and paint at police, and removed officers’ helmets.

11. On 2 April, several hundred protesters attended a memorial vigil for Mr Tomlinson around the Bank of England which I did not attend. The following day Commander O’Brien said the policing of the G20 protests had been a success. “I believe we used the right sort of plan,” he said. “We were polite, proportionate and pragmatic – and we are now where we are with a city that’s open and people can get to and from work.”<sup>14</sup>

12. However a different picture quickly emerged. My personal experience was that police had been heavy-handed from the start and, throughout the protests, I saw officers treat protesters with disdain. The Guardian published witness statements, photographs and footage that suggested serious injuries were inflicted by officers in apparently unprovoked attacks on protesters, bystanders and journalists.<sup>15</sup> It was

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<sup>12</sup> See <http://www.guardian.co.uk/uk/2009/feb/23/police-civil-unrest-recession>

<sup>13</sup> See <http://www.guardian.co.uk/uk/2009/mar/27/g20-protest>

<sup>14</sup> See <http://news.bbc.co.uk/1/hi/uk/7980400.stm>

<sup>15</sup> See <http://www.guardian.co.uk/uk/2009/apr/11/g20-protest-witnesses-police-actions>  
See <http://www.guardian.co.uk/politics/2009/apr/21/g20-video-protest-policing>

also evident that police medics and undercover officers used batons and police dogs inflicted bite wounds on protesters. Some officers concealed their badge numbers. Of the 256 complaints received by the IPCC about the operation, 121 relate to use of force by officers. The IPCC has launched four full and independent investigations into alleged misconduct by officers.

#### IAN TOMLINSON CASE

13. The IPCC is conducting the criminal investigation into Mr Tomlinson's death. However, facts about the case in the public domain are relevant to any assessment of the MPS's policing of the G20 protests. Mr Tomlinson was a member of the public attempting to walk home on the evening of April 1 when, repeatedly, he was prevented from passing police cordons around the Bank of England "kettle". We have seen no evidence he resisted or threatened police officers at any time. Mr Tomlinson was attempting to find a route home when, at 7:20pm, he found himself at Royal Exchange Buildings.

14. Mr Tomlinson had his hands in his pockets and his back to officers when he was attacked. Officers who we have since identified, from their uniforms and equipment, as being the MPS's Forward Intelligence Team and Territorial Support Group, and City of London dog handlers, approached him from behind. Mr Tomlinson was struck with a baton and pushed forcefully to the ground by a TSG officer who had concealed his badge number and covered his face with a balaclava. Mr Tomlinson collapsed and died minutes later of internal bleeding. The TSG officer has been suspended and questioned on suspicion of manslaughter.<sup>16</sup>

15. The Tomlinson case bares similarities with the second IPCC investigation which led to the suspension of a MPS police officer. That case, involving an officer caught on film slapping protester Nicola Fisher across the face before striking her with a baton, also took place in proximity to a cordon around the Bank of England. As with the Tomlinson the alleged violence involved a member of the TSG—in Fisher's case, a sergeant—who was not displaying his badge numbers.

16. The TSG are often at the the front-line of protest policing, and are expected to show the highest professional standards. In March, a court ruled the MPS should pay £60,000 in damages for a "serious, gratuitous and prolonged attack by TSG officers on Babar Ahmad, a terror suspect, during his arrest in 2003. Documents submitted to the court revealed the four officers who carried out the arrest had 60 allegations of assault against them. One of the officers had 26 separate allegations of assault against him. The MPS has confirmed that since 1992 all six officers involved in the Ahmad assault had been subject to at least 77 complaints. When lawyers for Ahmad asked for details of these allegations it emerged that the police had "lost" several large mail sacks detailing at least 30 of the complaints. All but one of the officers continue to work for the TSG.<sup>17</sup>

17. The timing of the attack on Mr Tomlinson may also be significant. It occurred around the same, shortly after 7pm, that many other complainants alleged police used excessive force in what appeared to be a coordinated attempt by police to clear the streets. It was around this time that witnesses saw dogs appear, at least two of which were filmed inflicting bite injuries on protesters. Others described police lashing out and losing control as they attempted to move groups of protesters. It was also around this time that police cordoned off the nearby Climate Camp and began baton charges. The committee may wish to learn whether there was an order from the MPS's Gold Command to use increased levels of force to remove protesters from the area at this time.

18. The way in which the MPS, City of London police and IPCC handled information about Mr Tomlinson's death has come under serious scrutiny. In a statement released four hours after his death, the MPS said attempts to give CPR to Mr Tomlinson were impeded by protesters throwing missiles "believed to be bottles". The protesters who went to Mr Tomlinson's aid after his collapse, called an ambulance and witnessed his treatment, later contested the MPS's version of events. The MPS later said it had not "deliberately mislead" the public.

19. The IPCC is be expected to independently investigate a death where there is suspicion it may have resulted from an unprovoked assault by a police officer. However in the Tomlinson case, this did not happen. The IPCC allowed City of London police to conduct the investigation for six days, until the broadcast of the Guardian's footage. Within 24 hours of Mr Tomlinson's death, City of London police knew of images of him lying at the feet of riot officers. Within 48 hours, witnesses had come forward describing contact between Mr Tomlinson and police. Mr Tomlinson's family, however, were not told that. Neither were journalists. Instead, 72 hours after the death, City of London police released an account of a pathologist's report that concluded he died of a heart attack. The police statement made no mention of the pathologist's discovery of other injuries on Mr Tomlinson's body or blood in his abdomen. It was only the following day, when the Guardian's pictures were published, that Mr Tomlinson's family became aware of possible police involvement in the death.

<sup>16</sup> See <http://www.guardian.co.uk/uk/2009/apr/17/ian-tomlinson-g20-protest-coroner>

<sup>17</sup> See <http://www.guardian.co.uk/uk/2009/apr/18/g20-protests-police-complaints-investigation>

20. Through a combination of official guidance, strong suggestion and press releases, the IPCC and police discouraged me and other journalists from investigating alleged police assaults against Mr Tomlinson. I was personally told by police that my investigation was upsetting Mr Tomlinson's family—a claim I later discovered was untrue. The IPCC told rival journalists there was “nothing in the story” that Mr Tomlinson had been assaulted by an officer.<sup>18</sup>

21. On the evening the Guardian released the Tomlinson footage, an IPCC investigator and City of London police officer visited the newspaper's office to ask for the video to be removed from its website. They claimed it was “jeopardising” the inquiry and not helpful to Mr Tomlinson's family. In fact, Mr Tomlinson's family disagreed with the police and IPCC in both regards. The New York fund manager who shot the video said: “Now I'm glad I came forward. It's possible Mr Tomlinson's death would have been swept under the rug otherwise. You needed something incontrovertible. In this case it was the video.”<sup>19</sup> The Guardian is convinced revealing evidence of the attack on Tomlinson prior to his death was the right decision.

#### TREATMENT OF JOURNALISTS

22. Clearly there is a question over the reliability of information released by police and the IPCC. I have also been asked to cover the ability of journalists to report from inside demonstrations. The National Union of Journalists has documented how police at the G20 at times refused to acknowledge Press Cards, the bona fide ID for working journalists authorised by the Association of Chief Police Officers. Its members prevented from reporting and held behind cordons for hours. Seven NUJ members have reported “deliberate assault” by officers, including one, photographer Michael Preston, who suffered a broken arm. Preston said: “After taking a picture at 1:21pm, I held up my camera in my right hand and had a press card in my left hand. I shouted to police: ‘I'm press, I'm press’. The officer who was coming toward me made eye contact and shouted: ‘I don't care. Get back, get back.’ There was nowhere for me to go. He then swung his truncheon upwards to hit me on my left elbow.”<sup>20</sup>

23. At the April 2 memorial vigil held for Mr Tomlinson, the treatment of journalists happened to be caught on film. A City of London inspector used section 14 of the Public Order Act to remove members of the press from the area “for half an hour”. The MPS later apologised for the incident, claiming photographers were “caught up” when the act was used to disperse protesters. The footage shows the order was solely directed at “ladies and gentlemen of the press”. Asked by journalists why they should leave, the inspector replied: “You've got a choice: you either go away now or you spend the rest of the afternoon in a cell.”<sup>21</sup>

24. The committee's previous report mentioned NUJ concerns that journalists who regularly covered protests were being subject to police surveillance. The Home Office and senior police subsequently denied the practice, or declined to answer the question. However police surveillance footage, shot by officers at the Kingsnorth protest in Kent last year and obtained by the Guardian in March, revealed how officers monitored three members of an ITV news crew, a Sky News cameraman and several photographers. Kent police later apologised for the surveillance of journalists.<sup>22</sup>

#### CRIMINALISATION OF PROTEST

25. David Gilbertson, a former MPS Commander and deputy inspector of constabulary, has written about a cultural shift in UK policing. He said: “The concept of officer safety has assumed a life of its own. It started in the late 1990s with the laudable aim of designing a stab-proof vest for officers as a response to a small number of knife attacks. The concept has now moved from a defensive posture to an aggressive model. Officers are trained to be on guard against attack, to regard every situation, no matter how seemingly benign, as a threat situation. The lesson is that the public are your enemy. That mindset appeared to dominate at the G20 protests. Video footage showing officers with steel batons raised shouting “Back off!” is a classic example of officer-safety training. Indeed, the G20 has become a tipping point.”<sup>23</sup>

26. The prevailing view among protesters is that police treat their political activity as potentially criminal or, at best, a form of dangerous anti-social behaviour. The committee may wish to consider recent developments that support that view. In March the Guardian revealed how photographs, names, political associations and video footage of thousands of people attending protests are routinely obtained by police surveillance units and stored on a database. Police now monitor activists at meetings, restaurants and even their homes. Information is at times stored about people deemed on the “periphery” of a demonstration.<sup>24</sup>

27. Such levels of surveillance may help explain last month's pre-emptive arrests of 114 environmental activists outside Nottingham, which prevented a demonstration against E.ON's Ratchliffe-on-Soar power station.<sup>25</sup> A week later, the Guardian reported Freedom of Information disclosures that showed civil servants handed confidential police intelligence about protesters to E.ON ahead of the Kingsnorth

<sup>18</sup> See <http://www.guardian.co.uk/uk/2009/apr/09/g20-police-assault-ian-tomlinson-g20>

<sup>19</sup> See <http://www.guardian.co.uk/uk/2009/apr/18/ian-tomlinson-g20-police-officer>

<sup>20</sup> See <http://www.guardian.co.uk/uk/2009/apr/11/g20-protest-witnesses-police-actions>

<sup>21</sup> See <http://www.guardian.co.uk/politics/2009/apr/21/g20-protest-video-police-2>

<sup>22</sup> See <http://www.guardian.co.uk/media/2009/mar/10/climate-camp-surveillance>

<sup>23</sup> See <http://www.guardian.co.uk/commentisfree/2009/apr/20/policing-relations-general-public>

<sup>24</sup> See <http://www.guardian.co.uk/uk/2009/mar/06/police-surveillance-protesters-journalists-climate-kingsnorth>

<sup>25</sup> See <http://www.guardian.co.uk/environment/2009/apr/13/nottingham-police-raid-environmental-campaigners>



protest.<sup>26</sup> Five days later, the Guardian revealed secretly recorded conversations between Tilly Gifford, a member of the anti-airport expansion group Plane Stupid, and undercover Strathclyde police officers who were attempting to recruit her as an informant. The officers claimed to be running a network of hundreds of informants inside peaceful protest groups who secretly feed them intelligence in return for cash.

28. Gifford's lawyer, Patrick Campbell, has still not been able to ascertain who the men were. He said: Gifford's lawyer, Patrick Campbell, said: "I have very considerable concerns about these events. There appears to be a covert operation that is running in some way with, or using, Strathclyde police's name. There appears to be a concerted effort to turn protesters to informants and possibly infiltrate peaceful protest movements. The methods employed are disturbing, and more worrying yet is the lack of any clearly identifiable body responsible for this. These individuals seem to have some kind of police support or at the very least connections with the police—the access to police stations confirms that—but my concern is the lack of accountability and the threat to the individual and her right to protest."<sup>27</sup>

May 2009

### Memorandum submitted by Liberty

#### INTRODUCTION

1. Liberty is pleased that the Joint Committee on Human Rights has decided to re-open its inquiry into the policing of peaceful protest. In 2008 Liberty submitted both written and oral evidence to the Committee's inquiry<sup>28</sup> and we welcomed many of the recommendations in the Committee's report.<sup>29</sup> In light of the recent high profile events, including the G20 protests in the City of London, the Tamil protests in Parliament Square and the arrests at the Iona independent school in Sneinton, Nottingham, Liberty welcomes the Committee's decision to take further evidence on the policing of protest in the UK.

2. Since its formation, peaceful protest has been at the core of Liberty's work. Indeed, we were founded in 1934 as the National Council for Civil Liberties principally to monitor the policing of protests and in response to the use of police agent provocateurs to incite violence during the hunger marches of 1932. We continue to campaign against unjustified and disproportionate interferences with the right to protest, including through the courts, in Parliament and in the media. In our previous written responses to this inquiry we considered why the right to peaceful protest is such an important part of the post-War human rights framework; looked at some of the many direct and indirect legal restrictions imposed on peaceful protest; and considered the legal position around the right to protest in privately-owned space. This short supplementary response draws on Liberty's long and varied history of fighting for the right to peaceful protest and focuses in particular on the operational tactics currently used to police protests.

#### KETTLING

3. A tactic increasingly used by police at public protests and widely used at the demonstrations in the City of London on 1 April 2009 is "kettling"—essentially police containment. This tactic was first used over a long period of time on 1 May 2001 when demonstrators at an anti-capitalist protest at Oxford Circus were prevented from leaving the area by a police cordon for about seven hours. As human rights solicitor, Louise Christian, has described:

*"[Kettling] is when the police impose cordons on demonstrators and refuse to let anyone from within the cordon leave for what can be hours. This is a controversial tactic, since the police are effectively imprisoning people who may be behaving perfectly peacefully and lawfully. Moreover such tactics might be thought to encourage violence in some instances by overreaction especially if... some of the more violent elements of a crowd are left on the outside of the cordon. Even worse can be if a person's safety is compromised as well as their liberty."*<sup>30</sup>

4. A legal challenge to the use of the tactic at the 2001 May Day protests has recently gone all the way to the House of Lords. On 1 May 2001 at about 2pm a crowd of demonstrators marched into Oxford Circus from Regent Street South. They were joined later by others who entered the Circus, or tried to enter it, from all directions. By the end of the afternoon several thousand people were within the vicinity of the Circus. Lois Austin was among those who went to Oxford Circus as part of the crowd to demonstrate, but she was not one of the organisers. She was prevented from leaving the area by the police cordon for about seven hours and prevented by her detention from collecting her child from nursery. In 2002 Lois Austin and Geoffrey Saxby, a passerby caught up in the demonstration (who later dropped out of the litigation) brought a claim for damages against the police for false imprisonment and for breach of their right under Article 5(1)

<sup>26</sup> See <http://www.guardian.co.uk/uk/2009/may/01/liberty-climate-protesters-campaigners>

<sup>27</sup> See <http://www.guardian.co.uk/uk/2009/apr/24/strathclyde-police-plane-stupid-recruit-spy>

See <http://www.guardian.co.uk/uk/2009/apr/25/police-informers-tape-recordings-gifford>

<sup>28</sup> Original written evidence from Liberty available at: <http://www.liberty-human-rights.org.uk/pdfs/policy08/response-to-jchr-re-protest.pdf>. Supplementary written evidence available at: <http://www.liberty-human-rights.org.uk/pdfs/policy08/supplementary-evidence-to-jchr-protest-and-private-land-.pdf>

<sup>29</sup> *Report Demonstrating Respect for Rights? A Human Rights Approach to Policing Protest* published on 23 March 2009.

<sup>30</sup> "G20: Questions need to be asked about 'kettling'" Louise Christian, Guardian, 2 April 2009

of the *Human Rights Act 1998*.<sup>31</sup> (HRA). The House of Lords handed down judgment in the case earlier this year and found that Article 5 of the HRA had not been engaged.<sup>32</sup> Liberty believes that the reasoning behind the judgment was deeply flawed. In reaching the decision that there had been no deprivation of liberty, their Lordships held that the *purpose* behind the police “kettling” should be taken into account. Decisions as to whether liberty has been deprived are, of course, context specific. They will rightly depend on the circumstances of individual cases and factors such as length of time, conditions etc. We do not believe, however, that the purpose of a deprivation should have any bearing on whether the right to liberty has been engaged. The right to liberty is <http://www.guardian.co.uk/commentisfree/libertycentral/2009/jan/14/human-rights-act-one-of-the-more-absolute-rights-protected-under-the-hra-and-can-only-be-abrogated-in-five-well-defined-exceptions-which-include-detention-to-effect-a-lawful-arrest-or-compliance-with-a-court-order-detention-of-a-child-who-is-unsupervised-or-of-a-person-in-breach-of-immigration-rules-or-the-lawful-detention-of-persons-for-the-prevention-of-the-spreading-of-infectious-diseases-of-persons-of-unsound-mind-alcoholics-or-drug-addicts-or-vagrants>. Liberty believes that it is at this secondary stage of determining whether an exception applies that the purpose behind the containment becomes relevant. Purpose should not inform the decision as to whether the deprivation has taken place in the first place.

5. Despite the House of Lords ruling in the May Day case, Liberty believes that kettling, over a prolonged period, necessarily engages Article 5 of the HRA. Lois Austin is now planning to take her case to the European Court of Human Rights and Liberty is intending to join the Strasbourg litigation. We will argue that the European Court of Human Rights should look again at the question of whether Article 5 is engaged when protesters are “kettled” and we are hopeful that the legality of this tactic will be reassessed.

6. Putting aside legality or otherwise of the kettling tactic, Liberty believes that there are sound practical reasons why kettling can prove counterproductive. Informal containment of large numbers of people within a confined area for extended periods is unsafe. Where this has happened in the past, Liberty has heard that those “kettled” have been unable to access food, water, facilities or medical treatment. It is not difficult to imagine how lack of facilities might exacerbate the risks of confrontation. In addition, common sense tells us that mass containment of this kind—where those intending harm may potentially be kept alongside those with solely peaceful aims—is as dangerous as it is illogical. Far from taking the heat out of the situation, it may temporarily imprison those who are potentially weak and vulnerable while simultaneously provoking those who are not so well intentioned. On a purely practical assessment, Liberty believes that the police would do better to stick to old fashioned dispersal where needed and arrest where necessary.

#### IDENTIFICATION/PHOTOGRAPHY

7. Liberty is also concerned about recent evidence and reports that the police are misusing residual common law and statutory powers to intimidate protesters by both asking for names and addresses and recording footage of protests. We understand that the police frequently use stop and search powers (under section 44 of the *Terrorism Act 2000*)<sup>33</sup> and section 50 of the *Police Reform Act 2002* (PRA) to obtain the identity details of individuals. In some cases identity details have been demanded before protesters are allowed to leave areas of containment and we have heard numerous reports of protesters being told that a failure to provide identity details will lead to arrest. The use of this tactic was reported at the 1 April demonstrations in the City of London:

*Outside the Bank of England, thousands were held for up to eight hours behind a police cordon, in a practice known as “kettling”. Parents with children and passers-by were told by officers on the cordon that no one could leave. According to witnesses, when they were finally allowed to go on Wednesday night, they were ordered to provide names and addresses and have their pictures taken. If they refused, they were sent back behind the cordon.*<sup>34</sup>

8. Liberty has serious concerns about this intimidating practice, not least for its potential chilling effect on speech and protest. Our specific concerns about the misuse of section 44 powers are well-documented. We also have particular concerns about the use of section 50 of the PRA. This section makes it a criminal offence to fail to give your name and address when asked by a police constable who has reason to believe that a person has been acting, or is acting, in an anti-social manner. Liberty objected to this provision when it was first introduced. We did not and do not see the justification for a criminal offence of failing to give a name and address when stopped on mere suspicion of committing a non criminal act, when it is not a criminal offence to fail to give a name and address in respect of suspicion of criminal offences. The fact that this provision is used by the police to request names and addresses of peaceful protesters makes this provision all the more worrying. Not only does the offence turn the already blurred distinction between civil and criminal law on its head but its misapplication to peaceful protesters poses a threat to freedom of speech and freedom of assembly. The use of this power to obtain the names and addresses of protesters goes to the very heart of what appears to be a significant cultural problem with the policing of protest. While many talk of the right to “peaceful protest” the police frequently talk of the right to “legal protest”. These two ought

<sup>31</sup> Article 5 of the European Convention on Human Rights as incorporated under the Human Rights Act.

<sup>32</sup> *Austin (FC) (Appellant) & another v Commissioner of Police of the Metropolis (Respondent)* [2009] UKHL 5

<sup>33</sup> More information on the use of section 44 on peaceful protesters is provided in our first piece of written evidence to the JCHR enquiry (see footnote 1)

<sup>34</sup> <http://www.guardian.co.uk/world/2009/apr/03/g20-protests-police-tactics>

perhaps to be one and the same, however problems arise when protest per se is perceived an anti-social activity either by the statute book<sup>35</sup> or by the police themselves. As we have seen, ‘anti-social behaviour powers’ are then used as justification for keeping tabs on protesters.

9. Liberty is also aware of numerous reports of the police videoing and photographing individuals (including members of the press) at demonstrations as well as (and often combined with) demands for identification. Indeed, in March the Guardian reported that:

Overt surveillance was first used by police to monitor football hooligans and animal rights activists in the late 1990s. Pioneered by the Metropolitan police, the tactic has been expanded to cover all forms of political demonstrations and meetings, with surveillance units regularly deployed across the country. Those photographing or filming protesters are specially trained civilians or police officers, and are used to monitor movements to help the deployment of resources, or as gatherers of potential evidence. Indications suggest such surveillance is to increase.<sup>36</sup>

An alarming example of the use of police surveillance and identification is demonstrated in a case that Liberty has recently brought, *R (on the application of Wood) v Commissioner of Police of the Metropolis*.<sup>37</sup> Mr Wood was a media co-ordinator employed by an association that campaigned against the arms industry. Mr Wood bought shares in an arms company so that he would be entitled to attend the AGM. Despite causing no problems within the meeting, as Mr Wood left the AGM, police say that they observed him talking to a known arms industry protestor and therefore decided to photograph, question and follow him. He refused to identify himself and was followed to an underground station where police attempted to learn his identity from his travel documents with the help of London Underground staff. The police subsequently discovered Mr Wood’s identity from the photographs and retained them. Liberty argued that the taking and retention of photographs by the police officers amounted to an unjustified interference with his right to respect for privacy under Article 8 of the HRA.<sup>38</sup> Last year the High Court held that there was no interference with Mr Wood’s rights under Article 8 by the taking and retention of the photographs. This decision was made on the basis that the images were to be retained, without general disclosure, for very limited purposes. It was found that Article 8 had not been interfered with as their retention was not part of the compilation of a general dossier of information concerning Wood of the type that had been held in the past to constitute an interference with Article 8 rights. Liberty has since appealed Mr Wood’s case to the Court of Appeal who heard the case at the end of January. Since the hearing it has become clear<sup>39</sup> that photographs of individual protesters are commonly added to a public order image database within the Metropolitan Police. Liberty maintains that the taking, storing and dissemination of photographs of peaceful protesters is an unjustified interference with the right to private life and we await the judgment of the Court of Appeal in this case.<sup>40</sup>

#### POLICE BADGES

10. Film footage and pictures that have emerged over recent months have raised concerns that some police officers tasked with policing protests are failing to display their shoulder numbers.<sup>41</sup> Confirming this evidence, in a survey undertaken by the magazine *Police Review*,<sup>42</sup> it was revealed that out of the 806 officers who responded to the survey 53% (431) said they had always worn their force identification number while a worrying 45% said they did not.

11. Wearing epaulettes (badges) acts as a checking process on those people in public order roles and helps to increase public confidence in the police. On this, at least, there seems to be consensus: Sir Denis O’Connor, a former Metropolitan police officer and chief constable of Surrey, told MPs on the Commons Home Affairs Select Committee that it is “utterly unacceptable” for police officers not to be wearing their shoulder numbers and Sir Paul Stephenson, the Metropolitan Police Commissioner, supported this view in a statement issued by Scotland Yard:

<sup>35</sup> See for example sections 132–138 of the *Serious Organised Crime and Police Act 2005* discussed in Liberty’s initial written evidence to the Inquiry.

<sup>36</sup> *Ibid.*

<sup>37</sup> [2008] EWHC 1105 (Admin).

<sup>38</sup> Incorporating Article 8 of the ECHR.

<sup>39</sup> “Revealed: police databank on thousands of protesters” *The Guardian* (06/03/09) available at: <http://www.guardian.co.uk/uk/2009/mar/06/police-surveillance-protesters-journalists-climate-kingsnorth>

<sup>40</sup> In addition to the practice highlighted in the Wood case, Liberty also has deep concerns over recent reports over police and civil service intelligence sharing on the activities of peaceful protesters. On 20 April 2009 (“Secret police intelligence was given to E. ON before planned demo”) the *Guardian* reported that “Government officials handed confidential police intelligence about environmental activists to the energy giant E.ON before a planned peaceful demonstration, according to private emails seen by the Guardian. Correspondence between civil servants and security officials at the company reveals how intelligence was shared about the peaceful direct action group Climate Camp in the run-up to the demonstration at Kingsnorth, the proposed site of a new coal-fired power station in north Kent. Intelligence passed to the energy firm by officials from the Department for Business, Enterprise and Regulatory Reform (BERR) included detailed information about the movements of protesters and their meetings. E.ON was also given a secret strategy document written by environmental campaigners and information from the Police National Information and Coordination Centre (PNICC), which gathers national and international intelligence for emergency planning.”

<sup>41</sup> In both the G20 protests and the Tamil demonstrations in Parliament Square, photographs and films have appeared in the media (‘G20 police assault revealed in video’, *Guardian* 7 April 2009, [www.guardian.co.uk](http://www.guardian.co.uk) and *Evening Standard*, 17 April 2009 showing that some officers are not wearing their epaulettes.

<sup>42</sup> [www.policereview.com](http://www.policereview.com)

*One matter that I also want to make clear is that uniformed police officers should be identifiable at all times by their shoulder identification numbers. The public has a right to be able to identify any uniformed officer while performing their duty. We must ensure that this is always the case.*<sup>43</sup>

12. Despite this apparent consensus about the need for police badges, there is currently no legislative requirement for police officers to display their shoulder numbers. It is instead a long-established practice reinforced by the dress codes of various police forces. Although breach of the dress codes can lead to a disciplinary action under the *Police (Conduct) Regulations 2008*, it currently seems that it is standard practice across various police forces that only constables and sergeants carry unique numbers on their shoulder badges and not officers of the rank of inspector and above. Liberty would urge that the requirement for all officers to display their numerals be put on a statutory footing.

#### EXCESSIVE FORCE AND ACCOUNTABILITY

13. One of Liberty's biggest concerns in the wake of the G20 protests are the eyewitness reports, photographs and footage of the use of apparent excessive force by police officers. Footage taken of newspaper vendor, Ian Tomlinson, shortly before his tragic death on 1st April, shows him with his hands in his pockets being struck on the legs from behind by an armoured policeman. Following an initial post-mortem which concluded that he died of a heart attack, a second post-mortem concluded that the cause of death was abdominal haemorrhage. Whatever the outcome of the ongoing IPCC investigation and whatever the conclusion of the inquest into Mr Tomlinson's death, the footage alone raises serious questions about police conduct. This is especially so given that this incident appears far from isolated. Footage of a small female protester being struck across the face before being batonned on the legs from behind emerged not long after the footage of Mr Tomlinson. Similarly, the aggressive treatment of climate camp protesters later that same evening has been widely reported:

*Eyewitnesses said hundreds of environmental demonstrators camping out along Bishopsgate in a peaceful protest during the day were cleared from the area aggressively by riot police with batons and dogs after nightfall on Wednesday ... eyewitness, Ashley Parsons, said: "The violence perpetrated against so many around me over that hour was sickening and terrifying. "Without warning, from around midnight, the police repeatedly and violently surged forwards in full riot gear, occasionally rampaging through the protest line and deliberately destroying protesters' property, some officers openly screaming in pumped-up rage."*<sup>44</sup>

This raises two issues—the accountability of individual officers and the operational instructions given to police ahead of large scale protests. It also raises concerns about wider police attitudes towards protest.

14. As regards individual accountability, Liberty does not for a second doubt the huge challenges faced by individual officers in policing large scale protests. We do, nevertheless, believe that as highly trained professionals, whose main duty and purpose is to keep the peace and uphold the rule of law, police officers should be able to handle confrontational situations without the need to resort to excessive force. Liberty understands that the IPCC is now investigating well over 100 complaints against police conduct lodged following the G20 demonstrations in the City of London on 1st April. Having consistently campaigned for the creation of an independent police watchdog, Liberty welcomed the establishment of the IPCC under the PRA. Since its creation, however, we have expressed concern about its operation—in particular the delayed and much-criticized IPCC investigation into the death of Jean Charles de Menezes. Much of the criticism expressed over its handling of that case—namely, speed, effectiveness and transparency—could, unfortunately, also be applied to the IPCC's initial response to Ian Tomlinson's death. Initially left in the hands of City of London police, the investigation was only taken over by the IPCC a number of days after they received witness statements alleging contact between Mr Tomlinson and the police. Once the investigation was eventually taken over the IPCC they then stated inaccurately that CCTV footage was not available for the area in which the death took place. Taken together this has done little to restore the loss of public confidence in the body following the de Menezes inquiry. Liberty believes that the IPCC needs, urgently, to restore public trust in its independence and effectiveness.

15. As regards operational instructions and police culture, serious questions remain. While evidence as to police culture is difficult to ascertain, off the record media briefing by police ahead of the 1 April demonstrations fails to instill confidence. Reports that the police were "up for it"<sup>45</sup> and police predictions that the day would be "very violent"<sup>46</sup> surely did little to cool the temperature and reduce the chances of aggressive confrontation as the day approached. Such reports also belie a worrying internal attitude towards the role of the police as regards protest. In light of the events of G20, the Metropolitan Commissioner has now announced a review of police tactics to be undertaken by Her Majesty's Inspector of Constabulary, Denis O'Conner. Liberty would urge that in order for lessons to be learnt and faith restored, any review

<sup>43</sup> "Sir Paul Stephenson orders review of riot police tactics following G20 protests", Telegraph, 16 April 2009.

<sup>44</sup> "Baton charges and kettling: police's G20 crowd control tactics under fire" *The Guardian* (03/04/09) <http://www.guardian.co.uk/world/2009/apr/03/g20-protests-police-tactics>

<sup>45</sup> "Fears police tactics at G20 will lead to violence" *The Guardian* (27/03/09) available at: <http://www.guardian.co.uk/uk/2009/mar/27/g20-protest>

<sup>46</sup> *Ibid.*

needs a clear purpose and wide remit. This includes an examination of the operational instructions given to police units ahead of large scale protest—and the G20 in particular. Any such review also needs to be able to demonstrate independence, transparency and genuine engagement.

#### PRE-EMPTIVE ARREST AND BAIL

16. Liberty is glad that the Committee's inquiry extends in particular to the arrest of 114 environmental protesters at the Iona independent school in Sneinton, Nottingham which occurred hot on the heels of the G20 protests. The protesters were arrested, shortly before a planned protest at an E. ON power station for conspiracy to cause criminal damage and aggravated trespass.<sup>47</sup> Over the next few days, all those arrested were released without charge on police bail. The offence of "aggravated trespass" created under the *Criminal Justice and Public Order Act 1994* turned demonstrations on private land into a criminal matter even where there is no intended harm to people or property. When you add the suspicion of conspiracy to this already problematic offence, a broad discretion for pre-emptive arrests exists. And when restrictive police bail conditions are then imposed on those bailed without charge, the cumulative power of the police to stifle a potentially peaceful protest becomes alarmingly apparent. Liberty believes that the police must tread extremely carefully in applying these broad and discretion-heavy powers. Protests and demonstrations are frequently time-sensitive (for example protests with a purpose of preventing something from being built or to voice opposition to a visiting politician). Pre-emptive action in the protest sphere can therefore, by its nature, extinguish the effective exercise of the right of protest. This is to say nothing of the dangerous chilling effect that such pre-emptive action will undoubtedly have.

May 2009

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#### Memorandum submitted by Petros Malamidis

My name is Petros Malamidis. I am a Greek, 34 years old, clinical psychologist, writer, member of BPS (British Psychological Society). The reason I came in England is to improve my English because I need it for my PhD study which, hopefully, will finish soon. I have been living in London for the last 10 months, so please be patient with my English.

The reason I am writing to you is my arrest.

They arrested me on the second day of the G20 protests, 2 April. I was just walking on the street with a friend of mine and we were going to the Excel protest. The police stopped us without any reason. They asked for our ID. They searched my bag and they found inside a can of spray paint. They arrested me, they searched my wallet, they tried to make me sign something I never said, they made photos of me, they brought me to the police station and they put me in the custody. After the interrogation they charged me. I stayed during all night in the prison and the next morning they took me to the court. I couldn't, and I still cannot, understand why that happened to me without any reason... just for having a can of spray!

The charge is:

"Having article with intent to destroy/damage property. On 02/04/2009 at Festoon Way E16 had in your custody or under your control one can of spray paint intending without lawful excuse to use the same or permit another to use the same to damage property belonging to another. CONTRARY TO SECTIONS 3(A) AND 4 OF THE CRIMINAL DAMAGE ACT 1971.

H.O 59/13 Local None CJS CD71045."

I know that it doesn't sound "dangerous". I mean, the possibility of prison doesn't exist. But, believe me, how can I trust a system that instead of letting me protest peacefully they made everything possible to put me in a custody for almost a day and they charged me for nothing? Apart from that, they took all of my fingertips, a lot of photos and my DNA. I feel so offended that I couldn't do anything to protect my dignity from this absurd arrest.

My trial will be in the beginning of July in Magistrate Court in Stratford.

Please, if you need more information about my arrest do not hesitate to ask me.

May 2009

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<sup>47</sup> Section 68 of the *Criminal Justice and Public Order Act 1994*.

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### Memorandum submitted by Mr David Mead

I lecture and research in Public Law & domestic human rights. I have written extensively on peaceful protest over the past 10 years or so. My book *The New Law of Peaceful Protest: Rights and Regulation in the Human Rights Act Era* will be published by Hart before the end of the year.

The JCR has asked for submissions as part of its supplementary inquiry into the policing of protest in light of events in the past month. I shall limit my observations in the main to the police response to mass protests. Others no doubt will offer views on the (relatively) isolated incidents of violence and not just the well documented ones involving Ian Tomlinson and Nicola Fisher: see for example *The Guardian* 11 April 2009. So far as can be ascertained, these have all been totally unprovoked—aside perhaps from some low level abuse that one might reasonably expect officers to have withstood. It is clear that quite serious tortious, criminal and ECHR issues arise on a micro-level, aside from any macro-level aspects of police supervision, management and training. Others will be far better suited to offer opinions on these.

My observations are offered from the perspective of an academic lawyer without any recent experience of either active participation in protest or direct operational knowledge of the policing of such events. I hope nonetheless that my comments will be of some use.

1. No one could sensibly doubt the invidious position many officers have found themselves in during large-scale protests and demonstrations over the past 10 years or so, and thus the tensions underpinning the policing of them. It is hard to believe that no one present at events such as the G20, May Day 2001 or Poll Tax in 1990 is disposed to join in once trouble starts if they are not in fact there with the underlying purpose of provoking, causing or committing violence and disorder. The likely size of that disorderly/violent group is obviously a matter of dispute and conjecture but, assuming it exists, that seems to me not the real issue. Of course, others with first-hand experience may doubt this premise.

2. Increasingly, media reports of recent events (Kingsnorth, G20 etc) across a broad spectrum indicate a concern about the initial mindset of the police (perhaps only/mostly the Met?) towards protest and protesters: reading that the police were “up to it and up for it” was not helpful and set an incendiary tone. From considering the police response at these events, one obvious conclusion to draw is that an assumption of generalised, likely trouble (rather than a presumption of innocence) is becoming increasingly prevalent. Worries that a peaceful group will be infiltrated or used as subterfuge for violence (perhaps even terrorism?) seems to shape and determine how the police deal with protesters. Whether this is at the level of strategy, tactics or on the ground, reactive decisions is hard to know. There is a wealth of sociological literature on the divergence in any hierarchical organisation between public, formal guidance and assimilated, engrained, sub-cultural norms.

3. Officers on the ground and those in positions of semi-seniority will be influenced by the wider picture. I do not think it is a coincidence that all this is occurring against a back-drop of political support for the dilution of innocence against certain social groups. Most recently, I am thinking of the coverage given to the twelve terrorism arrests in early April. All have since been released without charge but not before the PM described M15 as having uncovered a “very big terrorist plot” with links being made to student visas and subsequent calls for a crackdown. A similar concern arises over the role of NETCU and its portrayal of even peaceful protesters as “eco-terrorists”: see the piece by George Monbiot about those subject to an RWE npower injunction in Oxford “Otter-spotting and birdwatching: the dark heart of the eco-terrorist peril” (*The Guardian* cif 23 December 2008). Much of the official discourse surrounding protest is not wholly sympathetic... or at least properly fails to distinguish between truly violent/disorderly protest and disruptive, inconveniencing protest (see below).

4. The viewpoint that sees all protesters as likely law-breakers seems to have taken hold and has several worrying side-effects:

#### (A) INDISCRIMINATE POLICE RESPONSES

It is behind the increased reliance on “kettling”, not as a measure of last resort but as standard tactic. This measure was used, again from media reports, during the G20 summit and at the Gaza protest in January when a group was herded into the Hyde Park underpass (considerable evidence on YouTube) but as Jeremy Paxman wryly commented on Newsnight earlier in the month, the problem with kettles is that they come to the boil.

The police relied on the seeming endorsement of the strategy by a unanimous House of Lords in *Austin* in January this year. As members will probably be aware, the House held the seven-hour police cordon at Oxford Street on May Day 2001 was not a deprivation of liberty within Article 5(1) of the ECHR. It did so because (Lord Hope gave the leading speech) on its view of Strasbourg case law (a) it was proper to consider proportionality and balance as integral elements under Article 5 leading to (b) that it was legitimate in assessing the meaning of “deprivation of liberty” to take account of motive and purpose. I have serious concerns about the decision, in terms of ECHR jurisprudence and its “fit” with domestic Article 5 cases such as *JJ* and *Laporte*.<sup>48</sup> Even if that were not the case, *Austin* was very much predicated upon the cordon being an unplanned, reactive tactic on the day... not something coordinated and for general use as part of the tool kit. It is doubtful that the House sanctioned such a move.

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<sup>48</sup> See my forthcoming article “Of kettles, cordons and crowd control: a case note on *Austin v Commissioner of Police for the Metropolis*” [2009] EHRLR (June)—supplied separately

Similarly, there must be serious concerns about the increasing surveillance protesters are subject to. Even though the High Court in *Wood* (now on appeal) decided that taking of photos did not breach Article 8 (though conceptually there must be considerable difference in privacy terms between (i) passers-by seeing me (ii) passers-by recording my image as an incident of their own photography and (iii) the police doing so deliberately but only of protesters), it did not sanction the recording, long-term storage, database creation and sharing of photos and personal data (see *The Guardian* 7 March 2009). This was not an issue before it. Those practices must raise serious concerns under both Article 8 and Article 10/11. The mentality of the police towards protest is captured well in the apology by ACC Allyn Thomas (Kent police): we were wrong to film journalists covering protest (*The Guardian* 10 March 2009) without any realisation that the same measure creates a potential chilling effect for protesters ... and what would the press report then?

#### (B) PRE-EMPTIVE POLICING

Two examples here will illustrate the point. In *Laporte* the police were held to have intervened at too early a stage and thus to have done so unlawfully. More recently, in April over 100 environmental protesters were arrested in Nottingham on suspicion of conspiracy to commit aggravated trespass and criminal damage at an Eon power station. All were released without charge but bailed; it is hard to dispel the suspicion that it was a pre-emptive strike to undertake a mass trawl for evidence and impose bail conditions relating to power stations (as was reported to be commonplace in the miners' strike: see *ex p Sharkey*.)

#### (C) DISPROPORTIONATE POLICE RESPONSES

Undoubtedly there has been an escalation of violence and indications of a significant shift in policing practice. Whether this is one or a few bad apples or a rotten barrel is the million-dollar question. It seems slightly ironic that when real trouble did break out at the G20—the storming of the RBS building—the police were unable to prevent it, we must assume for an inadequate police presence.

It is now well-documented that the use of stop and search at Kingsnorth was excessive: members will be aware of the Liberal Democrat report (March 2009) indicating that over 2,000 items were seized at the Climate Camp, including board games, a clown outfit and soap “because protesters might use it to make themselves slippery and evade the grip of the police”. Members may be less aware of the case of Bertie Russell, arrested after taking over a coal train bound for Drax power station in June 2008. His bedroom was searched for “evidence of a political nature”: this included removing copies of *The New Statesman* but did not include letters from his MP of a more obvious “political” nature. His father filmed this all (available at <http://www.guardian.co.uk/environment/video/2009/apr/19/police-activism>) and is reported as saying “We are a completely clean, middle-class family from west London and I was the sort of person who would ask a policeman for the time, but now I would steer clear. I no longer have any trust in the police and especially after seeing the vast violence by police against the G20 protesters I worry about the safety of anyone near them.”

See, lastly, the protester trampled by a phalanx of officers en route to the Gaza demonstration <http://www.youtube.com/watch?v=NPB5q8gvCWo&feature=related>

5. In conclusion, some general words about protest and the law, not solely about the policing of it:

- (A) It is clear, as my original submission pointed out, that the law does not respond particularly well or sensitively to different types/forms of protest. There is the world of difference between throwing bricks through RBS's window and standing outside RBS with a banner. Within that is a spectrum of obstructive/disruptive activities that are not violent or even threatening (save perhaps by dint of numbers). Within that we might see the obstruction as deliberate—targeting the activity/company complained about—or as a by-product of an ordinary, large-scale protest. As I pointed out in that submission, any legal framework and policing response needs properly to cater to and differentiate between those.
- (B) Too much is made, perhaps, of the “right” to be free from disturbance, to go about one's business, to go shopping or to walk along the road to work. While these may be very valuable and cherished by us all, it is hard to conceive of them being “rights” *strictu sensu*. That being so, they can only be social interests, to be weighed against the right of peaceful assembly in Article 11 using the well-known proportionality test of Article 11(2). The structure of that right, as members will well know, favours protest unless there are sound, rationally connected, balanced reasons for restricting or stemming protest. Any restrictions must be measured, in proportionality terms, after giving individual consideration to each person affected: *Gough v CC Derbyshire* [2002] EWCA Civ 351 at [68]. In that weighing up, proper account needs to be taken of the functional importance of people expressing views one side effect of which might be temporary disturbance or suspension of “normal” life as well as avoiding blanket measures for ease and utility. The *Gough* sits uneasily with *Austin*-type situations—acknowledging the issue there was Article 5 not Articles 10–11.
- (C) A more individualised approach (ie contrary to *Austin*) would also correspond to the prevailing view in the EctHR. The Court has started to disjoin disruption from disorder in its reasoning: see eg *Aldemir v Turkey* (App 32124/02) judgment 18 December 2007: “any demonstration in a public place may cause a certain level of disruption to ordinary life and may encounter hostility” (at [42])—though the case did involve forcible dispersal with tear gas and truncheons. In *Aya Otaman*

*v Turkey* (App 74552/01) judgment 5 Dec 2005 the Court asserted that “where demonstrators do not engage in acts of violence, it is important for public authorities to show a certain degree of tolerance towards peaceful gatherings if [Article 11] is not to be deprived of all substance” (at [41]–[42]). We should not forget that the right to peaceful protest is not lost just because a protest becomes violent: what is crucial is whether the individual commits “reprehensible” acts (*Ezelin v France* (1991) 14 EHRR 362 at [53]).

May 2009

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**Memorandum submitted by the National Union of Journalists**

1. The NUJ welcome the opportunity of giving further evidence to the Joint Committee on Human Rights.

2. The NUJ is the UK’s largest journalists organisation. Its 38000 members work in newspapers, broadcasting, magazine and book publishing, new media and in government and private public relations. They include employed and self-employed, or freelance, and include writers, broadcasters, and photographers. The NUJ has been since its foundation over 100 years ago, committed to promoting the freedoms of expression and information.

3. Freedom of expression is enshrined in Article 10 of the European Convention of Human Rights, incorporated into UK Legislation by the Human Rights Act 1998. The media should be free to report and photograph and the public have the right to hear and read events that happen in society.

4. This was also recognised by the European Court of Human Rights as a fundamental value in a democratic society in *Observer and Guardian v UK* (1992) 14 EHRR153, stating that:

“Freedom of expression constitutes one of the essential foundations of a democratic society. Freedom of expression as enshrined in Article 10, is subject to a number of exceptions which, however, must be narrowly interpreted and the necessity for any restriction must be convincingly established.

These principles are of particular importance so far as the press is concerned. Whilst it must not overstep the bounds set, inter alia in the ‘interest of national security’ or for ‘maintaining the authority of the judiciary’ it is nonetheless incumbent on it to impart information and ideas on matters of public interest.

Not only does the press have the task of imparting such information and ideas; the public also have the right to receive them. Were it otherwise, the press would be unable to play its vital role of ‘public watchdog’.”

That special position of the Press remains as true now as it was in 1992.

5. Thus any restriction on this right must be necessary and proportionate—to be otherwise would serve only to undermine the democracy that is rightly protected and cherished in our society.

6. This evidence therefore concentrates on the treatment of journalists during the recent G20 protests and also, at other protests such as the Climate Camp at Kingsnorth Power Station.

7. It is submitted that Journalists should not be prevented or hindered from working and undermining their legitimate activities, nor should they have their journalistic property and material, or special procedure or excluded material seized, save in exceptional circumstances and then only be proper process. To do so imposes an unreasonable interference on the right of Freedom of Expression and a misuse of the various powers available to the police.

8. The Guidelines agreed between the Metropolitan Police, the NUJ, the Bristol Press Photographers Association and the Chartered Institute of Journalists should be specifically incorporated into legislation. These Guidelines have also been adopted by the Association of Chief Police Officers—See attached at Appendix 1. The reciprocal guidelines for the media are attached at Appendix 2.

9. The UK nationally recognised Press Card, authorised and verified by the UK Press Card Authority Ltd, should be respected and regarded as sufficient proof of identity. It includes a photograph and pin number which can be immediately checked by police if necessary.

10. The NUJ has received reports from several members of various incidents involving members being unjustifiably hindered or restricted in their legitimate journalistic activities at the G20 protests on 1 and 2 April 2009.

11. It is recognised that the Police generally have a difficult and sometimes dangerous job to do, and that political protests can be testing situations for the police. Nonetheless the behaviour of the Police must be proper and not above the law. Regrettably it appears that some Police behaviour has fallen short of the necessary standards.



12. The incidents comprise the following, which are also being submitted to the Independent Police Complaints Commission, in details, for investigation and for appropriate action to be taken. It must be emphasised that in all the incidents below, all journalists—reporters and those using photographic equipment, identified themselves by Press Cards visibly and sometimes also verbally.

- (a) Several incidents of journalists being detained behind cordons by Police and not being allowed to take photographs where they were. Despite requesting on several occasions to be able to leave, journalists were prevented from doing so. On one occasion, a journalist was told:

“You’ve been here all this time so there must be a reason why no one else has let you out”

— Without any evidence or justification whatsoever.

Another journalist was detained behind a cordon for 2½ hours, others for three hours or more. This, it is submitted, amounts to unlawful detention as well as preventing these NUJ members from earning a living. It amounts to censorship and denial of freedom of expression. It also amounts to denial of the right to liberty, also enshrined in Article 5 of the European Convention of Human Rights and incorporated into UK legislation.

- (b) Several incidents of journalists being ordered to leave a location. In some of those, journalists were threatened with arrest if they did not leave a location, the police citing s.14 Public Order Act 1986, we submit entirely inappropriately.

An apology has been issued through the Metropolitan Police Office.

An NUJ member reported that he had been ordered to leave a vigil in memory of Ian Tomlinson who had died the previous day. This journalist was using a video camera and again s.14 Public Order Act 1986 was cited.

- (c) The NUJ has received reports of journalists being moved about 200 metres from an incident and thus not being able to cover it.
- (d) Three reports have been received of police kicking the legs and shins of journalists when they were amongst demonstrators with police and demonstrators at various times pushing back and forth.
- (e) There are several reports of deliberate assaults by police.
- (i) Member struck by Police with baton as he took photos of Police who were striking the demonstrators at the time as the police tried to clear the area.
- (ii) Member struck by riot shield in his face and elsewhere (captured on camera). He received three blows. This member reports that at that particular time, ‘other police were being pretty good, pushing hard, but in a reasonable, very firm and non-violent way, but the assailant officer was running back and forth, hitting out in an indiscriminate manner.
- (iii) Member struck by riot shield
- (iv) Member pushed over, damaging his laptop computer. This member experienced police deliberately blocking camera lenses so that photographs could not be taken. On pointing out the ACPO approved media guidelines, he was told by police:
- “You don’t need to take all your photos now, there’ll be lots of time for taking photos later.”
- (v) Member struck (as he was photographing) by police baton on his elbow, suffering a fracture to his elbow. Worryingly, in this incident, as the member saw some officers hitting out with batons, he was displaying his press card, showed that to the police officer who said “I don’t care” and swung his baton hitting the member on the elbow.
- (vi) Photographer member reported being hit on the head by several blows despite having a helmet on with “PRESS” marked in bold letters on front and back. He suffered headaches for 3 days. This member also on a different occasion was jabbed in his side by a police baton and whilst filming later was grabbed and hit across the back of his legs, and complains also of 3 other incidents of not being allowed free movement.
- (vii) In another incident a journalist photographer reports being hit on his shoulder by a police officer, having previously been chatting happily with the officer (and other officers) who were aware he was a journalist. This happened when the police were ordered to move forward, and comments that he (the journalist) was being neither aggressive nor obstructive.

Reports were received of police declining to provide their names and numbers.

### 13. Climate Camp—Kingsnorth Power Station Protest

Several members reported a particular problem, of being stopped and searched on entry to the camp, held up for up to an hour approximately at a time for this to take place, and the same process occurring on leaving the site.

14. One member was stopped and searched three times, being quoted S.60 of the Criminal Justice & Public Order Act 1994. These incidents occurred despite members displaying Press Cards and police on some occasions being fully aware after this had occurred on several occasions that these were legitimate journalists. The delays caused to these members present various difficulties in filing reports/photos and thus affect their ability to work properly and earn a living.

15. On one occasion several members having left the site, were followed in a car by officers for several miles. These members left their vehicle, went to a MacDonalds where they were filing their reports and photos, and the police were filming them through the windows of MacDonalds. The union has already raised the issue of unwarranted surveillance.

16. One member who complained to Kent County Constabulary has received an apology from the Assistant Chief Constable, who commented:

“It is clear that officers on the ground did not understand the accreditation arrangements for journalists and indeed did not genuinely recognise the press card that journalists presented. The failing appears to lie with planning and management of the operation. This is my responsibility for which I am sorry.

He added “This line of more effective liaison with journalists has been clearly identified through the debriefing process as an area for development”.

That apology was welcomed by the NUJ.

17. There are various other incidents that have been reported to the NUJ in the recent past, not just at protests but also at completely innocuous events such as a wedding in East London and photographing near a station.

These involve similar complaints of witnessing legislative where not appropriate or essential, and also of assaults on members.

#### ACTION BY THE NUJ

18. The NUJ has been in contact since May 2008 with the Home Office over these matters, in communication with the Home Secretary, and meeting the Home Office Minister for State for Security, Counter Terrorism Crime and Policing in October 2008.

19. The Minister confirmed to the NUJ in December 2008 that the Terrorism Act 2000 does not prohibit people from taking photographs or digital images. Guidance has apparently been issued making it clear that film and memory cards may be seized as part of a search, but officers do not have the power to delete images or destroy film.

20. It is to be hoped that police comply with PACE and anti-terrorist legislation and also European and UK Court decisions that provide protection for journalistic material and journalists freedoms.

21. The NUJ is concerned that s76 Counter-Terrorism Act 2008 may be misused. Provision should not be used for seizing camera equipment and photographers on the pretext of them being obtained, published or communicated in a way that might be of assistance to a person committing or preparing an act of terrorism. Even a photo of a police officer or station could offend. Of course the State has a right and duty to protect the public, but it must do so responsibly and be accountable for the way in which it does so.

22. The NUJ is concerned that s44 Terrorism Act 2000 to stop and search in a designated area has been and may in the future be used to prevent proper journalist activity.

23. The chairman of the Metropolitan Police Federation called in February 2009 for a photography code, saying that the code’s aim “should be to facilitate photography whenever possible, rather than seek reasons to bar it...” Police and photographers share the streets and the Nat Federation earnestly wants to see them doing so harmoniously”.

A junior Home Office Minister announced in April 2009 that Guidance is to be issued. It is essential in a democratic society that the Police have the confidence of the public, and that legislation and practice should enable that to happen.

24. The previous Minister of State commended that “Societies that protect, nurture and to some extent worship the essence of freedom of speech, freedom of expression, the interchange of opinions are all the stronger than those that don’t.”

25. These incidents highlights various problems in the policing of the G20 protests:

- (a) Misuse of police powers, preventing journalists from photographing and detaining them and preventing them from working.
- (b) Some police officers seeming out of control
- (c) Lack of proper briefing prior to the protests and/or lack of adequate supervision by senior officers and/or senior officers colluding in inappropriate and unlawful conduct

26. The NUJ wishes to know precisely what briefings of senior officers and of junior ranks took place, and what those briefings contained?

27. The NUJ wishes to know precisely to whom and in what way, with what accompanying information, verbal or otherwise, the ACPO approved Media Guidelines have been issued?

28. The NUJ wishes to know what training is given to police recruits what ongoing training is given, and how often is this reviewed? When is the next review?

29. Professional Journalists carrying a Press Card should be free to work without harassment and intimidation.

30. To reiterate, the ACPO/Media Guidelines should be incorporated into legislation.

31. The UK nationally recognised Press Cards should be regarded as proof of identity and respected by the authorities.

32. The right to Liberty and Freedom of Expression are among the essential foundations of a democratic society.

It is vital that these are preserved. They cannot be taken for granted and all civil society must ensure that they are not eroded.

May 2009

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### Memorandum submitted by Mr Richard D North

#### INTRODUCTION

As the JCHR implies by its willingness to revisit its work in *Demonstrating respect for human rights?*, events in the City of London on 1 and 2 April—the G20 protests—have made discussion of protest even more urgent. The events at the Iona School in Sneinton, Nottingham also raise important issues. I hope the committee will use this opportunity to speak more critically than heretofore about direct action protest and human rights at what we might call a constitutional level.

Allegations about police infiltration of *Plane Stupid* and the campaigners' response to them point to this kind of more profound issue because they are illustrative of the antinomian nonsense many protestors and their defenders believe about the special rights their beliefs afford them.

*Demonstrating a respect for human rights?* concentrated on the easiest part of the protest issue: identifying and discussing bad behaviour by police. It also concentrated on discussing the parts of protest law (for instance controlling protest round Parliament) in which it was easy to take the conventionally liberal approach of aiming to facilitate spontaneous protest.

More generally, and at the constitutional level, I think it is fair to say the report took a conventionally liberal view of human rights and protest. My main point here is that even if it is true that human rights courts have mostly taken the view that almost all "peaceful" protest must be accommodated, the JCHR ought at least to acknowledge that events in London on 1 April help show that this view may be too permissive.

I hope recent events will persuade the committee that if protestors won't take a more mature view of their rights and obligations, their abuse of society's tolerance is such that it is time that parliamentarians did.

The State and society have to accord a dignity and courtesy to protestors even when the campaigners refuse to return the favour. However, if the State and society do not command and demand respect from all parties, including protestors, both the State and society in the end suffer.

I argue that Parliament has a duty to maintain the dignity and authority of the State because the subjects of the Crown have a right to look to the State to play its limited part in producing a sound society.

Less pompously, if parliament does not at least delineate and condemn infantile but corrosive abuses of freedoms it will risk being seen as being little better than those it refuses to chastise and even control.

#### *The absurdity of protest on 1 April*

On April 1 many peaceful protestors were either naively duped or cynically duplicitous as they provided cover for more violent types. Quite apart from that, it is time to stress that even if the "peaceful" protestors could claim a human right to protest on the streets of the City that day, and even if they had merely caused mild inconvenience and disruption, they ought to be ashamed to have wasted police time so uselessly at such a time and place.

Their protest failed two important human rights tests. The protestors' case had been given ample publicity during a previous large demonstration on 28 March so there was no argument that the campaigns needed special expression on 1 April. Nonetheless, the protestors continued with their demonstrations when they were bound to cause disruption out of all proportion to their value.

*The recent cases*

It hardly needs saying that the police must always be held to account for their tactics and just now in the cases of the pre-emptive arrests of a body of trespassers at the Iona school and the “kettling” of demonstrators in the City. Obviously, police must also be held to account at an operational level when officers are alleged to be using unwarranted force and to be breaking the law (or disobeying orders) in being unmarked.

The Iona School incident raises less challenging questions than the G20 protest in the sense that it is pretty obvious that direct action protestors do not have a human right to take over a school or to conspire to interrupt operations at a nearby power station. The G20 protests raise the more interesting question as to why so blatant an abuse of freedom has gone largely unremarked by the authorities and most of the media.

The alleged police infiltration of Plane Stupid, and Plane Stupid’s response to it, may help people see that much protest is almost hilariously blind to constitutional rightness. These campaigners seek to disrupt operations at airports, and have done so. They can hardly be surprised if the police seek intelligence on such activities. Yet Plane Stupid claim a human right to privacy even when they are plotting criminal acts.

*Should we outlaw more protest?*

There are obvious moves available to us, extending existing approaches. One possibility would be to further outlaw or limit protest of any kind or certain kinds at certain places at certain times. Another would be to insist on liaison with police for more and perhaps most sorts of protest.

At a practical level, interference might cause a dangerously counter-productive compensatory activity sheltering under resentment, whether feigned or not. If protestors knew that mass activity was explicitly forbidden or constrained in one place, it might be attempted elsewhere or more devious and inconvenient stunts might be evolved. In short, it may be expedient to continue with the present absurd situation.

*Conclusion*

If we can’t develop better law, we should at least aim to reframe the constitutional argument. We should label much present protest as infantile, unproductive and undemocratic. It would help if the JCHR declared that much protest, and the recent protests which occasioned the JCHR’s present return to the matter, importantly fail the human rights test that one’s exercise of freedom should take account of its effects on others’ freedoms. They needed to pass tests as to appropriateness and proportionality. Our cases fail the tests to the point at which parliamentarians ought to comment on it.

If on pragmatic grounds they cannot recommend outlawing such behaviour, the JCHR should at least risk asserting that it is not a human right to devise inconvenience and worse for one’s fellow-citizens, provided there are ample alternative means to register protest and where necessary they are facilitated by the State.

It is important to say that sensible new limits to protest should not be favoured or introduced for the convenience of the police, or out of fear that the police cannot and should not operate with better discipline.

*May 2009*

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**Supplementary memorandum submitted by Mr Richard D North**

I do not have detailed knowledge of the recent Tamil protest in Parliament Square but would say that it fits into my general thesis that there is a very present need to stress that there is an important right to protest in public but no general right to cause inconvenience (let alone anything worse).

*May 2009*

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**Memorandum submitted by Barnaby Pace**

I have agreed following correspondence with my MP Mr Dismore to submit this letter as evidence for your further investigation into the policing of protest. To introduce myself my name is Barnaby Pace and I am currently a 4th engineering student at Warwick University. I have become involved during the last few years in political activism and have been involved in a range of campaigns. I have been particularly involved in environmental campaigning with groups such as Climate Camp and with anti-arms trade campaigning with Campaign Against Arms Trade and People and Planet. I am intending to continue my work researching the arms trade after graduating, this and other political activities have brought me into contact with the police in their role in policing protest often. I have taken part in numerous protests as a campaigner, legal observer or police/security liaison. I have had both positive and negative experiences with the policing of protest, but recent police actions and policy has deeply worried myself and my peers. I believe that there is a systemic misunderstanding if not wanton callousness from police and elements of the government in policing protest and this has shown itself in recent years.

Among the many examples of concerning police behaviour that I understand your committee has heard about from your previous report I believe that there is a reflection of police not performing their role as facilitators of the right to protest and servant of the people but seeing themselves as servants of the state and the status quo. It seems that the essential lines of perceived responsibility have become blurred for so many police, instead of seeing themselves as answerable to the public, they too often see their role as obeying orders and protecting the powerful and the status quo.

Popular examples of questionable motivations for the authorities were the climate camps and Kingsnorth and in London during the G20 meetings. I was present at the Kingsnorth climate camp for the week, and a large number of my friends and peers were at the London camp. The police violence at the London climate camp is extremely concerning, not only as the violence caused so much pain for innocent protesters and has caused further distrust of the police, but because the reasoning for the police action is so worrying. Police appeared to decide that the protest would only be allowed to last 12 hours, not the intended 24 without consulting the campers. The reason for this arbitrary acceptable length of time does not make sense in the context of not disrupting traffic, as the closure of a single road should be outweighed by the legitimate protest of so many. There had been no violence from climate campers as far as can be told, for that matter there has never been a climate camper convicted of violence at any climate camp and therefore although there had been violence in other parts of London that day there was no reason to believe that climate camp would be a source of violence. As climate camp have reported in their legal team's report, which I believe has been submitted to the committee along with verbal evidence from Frances Wright, extreme violence and repressive police powers were used on these peaceful protesters, a number of my friends reported violence used indiscriminately by the police with many victims, including some of them. The reason behind police actions did not appear to be prevention of crime, but shutting down a political protest for political reasons and for reasons of convenience for the police.

The views of the police have changed during recent years, such that peaceful protest is viewed side by side with terrorism. The term extremism is used too often in the pejorative sense, extreme views are not inherently related to terrorism or violence. A pacifist can be said to have an extreme view, or a feminist, or a member of the green party and yet we should not believe that they pose a threat to the public. The police unit NETCU and its sister organisations appear to classify protest and campaigners alongside terrorism. For example the welsh organisation WETCU was described in a welsh council tax demand under the police summary "Terrorism and Domestic Extremism—During 2007–08, much attention has been focussed on enhancing protection of the key economic sights in the Force area. Work undertaken is not solely focussed on the threat posed from International terrorists. Attention has also been paid to the potential threat that domestic extremists and campaigners can pose. Collaborative work with other Welsh Forces led to the establishment of the Wales Extremism and Counter Terrorism Unit (WECTU) in April 2008." This and other evidence such as the NETCU policing protest guide<sup>49</sup> treats campaigners not as a legitimate and essential part of a democracy but shows the development of a toolkit to shut down protest.

At the London G20 climate camp, police violence came to a peak, but at previous climate camps the quantity of intentional intimidation, repression and callous disregard for peaceful protest was huge. I myself witnessed police brutality and many appalling abuses of police power. Climate Camp's legal team submitted a report to your committee for your previous report and they detailed many concerning incidents, but I shall, as an individual, relate the cases I saw and heard.

An extensive stop and search procedure was enforced by police at climate camp. From the very first day the minibus shuttle was stopped and searched on the road between the local train station and the camp, it appeared that every time the minibuses travelled back and forth from the camp they were pulled over, questioned and the vehicle checked. The interior of the minibus was not searched and the stopping of vehicles seemed a petty attempt to annoy and delay protesters. Everyone walking into the camp (vehicles were not allowed close) was stopped and search, initially under section one of PACE and later under section 60 of the public order act. Police when searching under PACE gave the reason of the search to be that anyone attending climate camp had to be searched as there might be direct action planned there. Every person entering and leaving the camp was searched, whether old or young, protestor or politician, journalist or anarchist. I believe I was searched at least half a dozen times without anything ever being found on me. I saw both protesters and their families and the local public seem distressed and intimidated by this excessive use of stop and search on anyone wishing to attend or visit an entirely legal and peaceful camp. The use of S60 of the public order act merely allowed the same arbitrary search regime to continue without the feeblest attempt at justifying searches. I was encouraged recently by the announcement recently from senior police officers of a reform for the use of stop and search powers,<sup>50</sup> particularly with regards to reducing the use of Section 44 of the Terrorism act 2000, however when the stop and search powers under PACE and S60 of the public order act are used arbitrarily and without good cause.

Related to the use of stop and search powers have been the intrusive methods of intelligence gathering used by the police on protesters. The presence FIT (Forward Intelligence Teams, police photographers) have become the norm at protests and their role as demonstrated by reporting by the Guardian appears not to be the evidence gathering from crime but for the intimidation and data gathering on political activists and journalists, most of whom will not have committed any crime. Stop and search and other powers have been

<sup>49</sup> <http://www.wikileaks.org/leak/uk-netcu.pdf>

<sup>50</sup> <http://www.guardian.co.uk/uk/2009/may/06/police-stop-and-search-reform>

used to extract personal details from campaigners. A range of methods have been used from threatening anyone with a foreign accent with arrest if they don't confirm their details to show that they are in the country legally, to accusing protestors of stealing their own bank cards in their wallet and saying that they will be arrested if they can't prove that they are the owner or possibly the most widespread in recent years of imposing arbitrary detention (usually in a kettle) and not allowing protestors to leave unless they give their personal details to the police. The police have no right to anyone's personal details and no legal powers to extract these details, however the attempts to gain these details have been widespread.

The question to be raised then is why the police have been so keen to find these details out, evidence from the BBC and Guardian has revealed that the Police have kept details on protestors or those associating with protestors in a database.<sup>51</sup> Some of these personal details have been passed to targets of protest.<sup>52</sup> Indeed police have taken it upon themselves to pre-emptively shut down protests, fearing civil disobedience.<sup>53</sup> We have a long and proud tradition of civil disobedience in this country and its usage can be justified both morally (I recommend Howard Zinn's book *Disobedience and Democracy: Nine Fallacies on Law and Order* for an analysis of civil disobedience in society) and legally with a lawful excuse of preventing a greater crime. We can see in the case of climate change activism where the government minister Ed Balls encourages activism and campaigning saying "The scale of the popular movement and the force with which activists and agitators deliver their arguments is the key to the success of any future international agreement to tackle climate change" and the threat of the climate change is acknowledged by all, and yet the attorney general wants to remove the legal defence for civil disobedience in this important cause.<sup>54</sup>

The practices restricting scrutiny of the police have become habitual sadly, there have been numerous widespread reports of police officers concealing their identity, this at present is not illegal, but knowing the identity of all police officers is essential to accountability. Police officers should be made by law to display their number clearly and concealing it should be an offence, further to that in the case of riot gear the police identities should be even clearer given the difficulty in identifying officers in public order situations. The practice of targeting and excluding journalists and legal observers is entirely contrary to any idea of public scrutiny. As long as legal observers and journalists are not physically obstructing officers their movements should not be restricted. At Climate Camp in Kingsnorth legal observers were threatened with arrest and I was manhandled for attempting to be close enough to observe people being stopped searched. Legal observers were entirely excluded from search areas at times during the week as shown in the video filmed in my presence, that can be found at [http://www.youtube.com/watch?v=IPnPUe1rm\\_Q](http://www.youtube.com/watch?v=IPnPUe1rm_Q).

An essential issue within policing protest in the last few years has been the perception that the Independent Police Complaints Commission is unwilling to treat accusations of police malpractice, especially at demonstrations, seriously. To bring the police to account, the only way possible is seen as taking the police and the individual officer to court, but this is prohibitively difficult and expensive (in time and funds) for most victims to do. The IPCC needs to be shown to have teeth in dealing with any number of the issues raised with policing protest to be seen as useful.

Police and government obfuscating and covering up issues is always unacceptable, yet accusations have been made that police have intentionally misled the public over issues such as the death of Ian Tomlinson (and before that Jean Charles de Menezes), have attempted to exaggerate the threat of campaigns and in some cases smear campaigners. To use the example of the Kingsnorth Climate Camp again, police commanders briefed the media about a supposed cache of weapons that were found away from the climate camp and has never been shown to have any connection with the camp, but was used to justify repressive police actions. After the camp, government ministers justified the £5.9 million expenditure and repressive tactics by claiming that 70 police were injured in the course of their duties, yet a Guardian FOI request showed that no police officer was injured in clashes with protestors<sup>55</sup> (where protestors non-violently resisted but used no violence themselves despite provocation<sup>56</sup>). The "Eco-terror" article published in *The Observer* last year, was written on behalf of NETCU and was later withdrawn after it was shown to lack evidence for claiming that environmental protestors are becoming terrorists.<sup>57</sup>

One of the most worrying subversions of legislation in recent years has been the use of the Protection from Harassment act 1997 (and reinforced in the SOCPA act) where peaceful protestors can be classed as stalkers and an injunction filed against them. This has taken place often with a single lawyer Timothy Lawson-Cruttendon, who has taken the legislation he helped write and used for arms companies and energy companies to prevent protest against them. Indeed it has appeared that in the case of the SmashEDO campaign in Brighton, the police colluded with the arms company in order to build the case for an injunction against campaigners as detailed in the film "On the verge" made by the campaigners. Under the Protection from Harassment act, previously legal activities can become criminalised. For example the injunction made it illegal to film the actions of security guards at EDO during protests where violence from security was possible.

<sup>51</sup> BBC Radio 4, "The Report", 7/5/2009

<sup>52</sup> <http://www.guardian.co.uk/uk/2009/apr/20/police-intelligence-e-on-berr>

<sup>53</sup> <http://www.guardian.co.uk/uk/2009/apr/14/protesters-power-station-arrests>

<sup>54</sup> <http://www.guardian.co.uk/environment/2008/dec/18/direct-action-protests-attorney-general>

<sup>55</sup> <http://www.guardian.co.uk/environment/2008/dec/15/kingsnorth-climate-change-environment-police>

<sup>56</sup> <http://www.youtube.com/watch?v=I00KnM-rqT4>

<sup>57</sup> <http://www.guardian.co.uk/commentisfree/2008/dec/23/activists-conservation-police>

The use of kettling and protest pens has become widespread, protesters are not inherently dangerous and therefore should not need to be penned in, where it becomes increasingly hard to engage with the public which is often the purpose of demonstrating. Kettling seems only likely to increase tensions where protesters are detained arbitrarily, the prospect of violence is greatly increased when police use force to detain innocent people. The escalation of police violence through use of baton and shields is clearly not conducive to crowd safety or peaceful protest and will only ferment anger at the police, not trust. It is also worrying that evidence has already emerged of protesters being threatened with tasers, notably at the raid of the squatted convergence centre for climate camp at the G20.

I believe that there is a systemic problem where police and government have stopped seeing protest (and civil disobedience) as a legitimate part of a healthy democracy where police should be present only to referee and keep the peace by addressing any lawbreaking in a fair and even-handed way. Police have been given powers that allow for clamping down on protests and seem to be encouraged in their repression of protest by government. I believe police powers need reform (most likely through changing legislation) but the most important shift is from a position of seeing protestors as threat but as members of the public who should be respected, the key element is that the police's duty is to keep the peace, not protect the powerful.

May 2009

#### Memorandum submitted by Mr Robert A Steele QPM; CPM; MPhil

*I write this submission as a former Assistant Commissioner of Police, Deputy Director of Special Branch in the Royal Hong Kong Police. I retired after some 30 plus years service in 1995. For three years during my service I commanded the Police Tactical Unit, comprising Hong Kong's internal security and counter-terrorist unit [the Commissioner's reserve]. A large part of my role was the training of officers to deal with outbreaks of internal disorder and police major demonstrations. My background is mainly in security, intelligence and public order. This submission refers, unless otherwise stated, to policing in the Metropolis on 1 April 2009.*

["The police of the future will inevitably reflect social change probably more rapidly than in the past"<sup>58</sup>]

I begin with two caveats:

- I have been retired for some years and my policing experience was in a paramilitary force. Nevertheless, I believe that my views in this submission have relevance to current public order policing in the United Kingdom especially as our police forces seem to be growing ever more paramilitary.
- My knowledge of the events surrounding the G20 demonstrations derives solely from television and newspaper reports. These are often wildly inaccurate and rarely tell the whole story.

My submission thus deals mainly with principles and philosophy of policing public order events so as to protect both the right to peaceful protest and those exercising and policing that right.

#### STRATEGY AND TACTICS

3. There are those for whom "protest" is an excuse for violence and whose sole purpose is to create anarchy and disorder. The police have to deal with these people yet the majority of protestors on 1 April, especially at the "climate camp", were peaceful. The police strategy of containment – known colloquially as "kettling"—is, in principle, dangerous and counter-productive. It appears not to allow front line commanders any discretion for tactical appreciation of the situation and the tailoring of tactics in the light of that appreciation. But it has further serious shortcomings:

- (a) It fails to differentiate between the trouble maker and the peaceful protestor thus immediately placing the police and protestor on opposite sides; it engenders a "them and us" mind-set and it is unnecessarily intimidating.
- (b) Large numbers of people are deprived of their liberty, detained in effect. This creates resentment and an air of desperation and panic, and is, I fear, of doubtful legality.
- (c) Crowds of many thousands are penned into to relatively confined spaces and held there by two or three lines of police officers. The police are vastly outnumbered by the crowd which, if panic spread, egged on by troublemakers, sufficient head of steam would build up to easily turn a crowd into a mob and overrun and surround the police lines, endangering the lives of both the demonstrators at the front of the crowd and the police officers.

4. It is bad leadership to place police officers in this position; for once the crowd breaks through the officers have nowhere to go. It is bad tactics to alienate a vast section of the normally law abiding public by whose consent the police operate as, apart from building up resentment and anger on the day, such carries over to other areas of police-public contact.

<sup>58</sup> "In the Office of Constable" Sir Robert Mark, Commissioner of Police for the Metropolis, 1978

5. The police argument has been advanced that containment prevents damage to property along the escape route until there are sufficient number of police to “escort” the demonstrators away. This argument is valid but only to a point—how long and how far are dispersing demonstrators to be escorted? Those so minded to cause damage can do so anywhere during dispersal. In the event police failed to prevent extensive damage to the Royal Bank of Scotland premises during the main demonstration on 1 April. Argument in favour of containment is far outweighed by argument against as outlined above in 3(a) to (c). Better to have sufficient mobile officers to channel departing demonstrators down a particular less sensitive route and a reserve standing by to deal with trouble.

6. The role of the TSG needs to be re-examined in regards to public order policing. The deployment of large numbers of police in “hard” order—helmets, body armour etc. openly on show can provoke the very reaction that it is deployed to stop. The presence of police should not be an occasion for violence. Until it is shown to be necessary by events, officers should police in “soft” order as for normal watch and ward duties. This permits officers to be seen as more approachable and officers should be encouraged to chat with demonstrators. Hard order places an impenetrable barrier between the officer and the public with the result that violence is more likely. This is not to say that a Commissioner’s Reserve in hard order should not be readily available for use at very short notice if required. But it needs to be very clear where the authority lies for deploying this reserve. I return to the TSG at para 9 below.

7. The principle must be to seek to defuse and calm the situation; to use only the minimum force required to achieve the objective and that force to cease immediately the objective is achieved. Both strategically and tactically these principles seem to have been ignored or at best, paid lip service to.

#### DISCIPLINE

8. Discipline is a matter of training, ethos and leadership. Sadly there appeared to be a lack of leadership, personal discipline and evidence of a pro-violence ethos on the day. Indeed, it appeared as if some officers at least were, to quote: “up for it”, well before the demonstration. In this regard:

- (a) There were officers on the street without visible numbers and with faces covered. In a free and open society this is not acceptable.<sup>59</sup> Such reflects badly on the front line leadership of the officers involved. Officers presumably still have to “parade” for duty. Were numbers being worn then? If not what was done about it? If they were removed or covered subsequently then the supervising officer should have taken action to remedy the situation there and then.
- (b) There seemed to be an indiscriminate and widespread use of batons often apparently without sufficient reason. Using batons on peaceful demonstrators blocking the highway but not otherwise offering violence is an excessive use of force amounting to criminal assault. Officers should be trained not to respond to taunts and insults but to act in a calm, fair and determined manner in the face of provocation.
- (c) Police are subject to the rule of law. Indeed they are accountable to the law, not the State or their Local Authority for their actions.<sup>60</sup> This is a basic philosophy of policing in a democracy but unless this philosophy pervades the whole of the service then events such as those witnessed on 1 April 2009 will re-occur. There have been reports that officers have in the past refused to cooperate with both internal and legal enquiries and even refused to appear in Court. If such reports are true then there is no place for officers of that calibre in the police service. The public must know, indeed they must see, that the police are subject to the same law as the public.

#### ROLE AND TRAINING OF TERRITORIAL SUPPORT GROUP

9. Many complaints seem to be directed against the TSG. According to the MPS web site:

Once selected an officer will complete a two week induction course where they receive further instruction in public order tactics, CBRN training and officer safety techniques. After joining their unit the officer is expected to maintain an appropriate level of fitness and the skills acquired on the induction course.<sup>61</sup>

A two week induction course hardly seems sufficient given the expected role of TSG. The Hong Kong equivalent received at least 12 weeks training in public order policing tactics and all officers were already proficient in skill at arms prior to joining the unit. Given the events on 1 April it would seem that training needs to be urgently reviewed.

<sup>59</sup> There are times where the concealing officers’ identity is necessary e.g during some counter terrorist operations but it is not a carte blanche. The principle must remain that police are identifiable. It is a moot point whether anyone in Britain should be abroad in the street with face covered other than for safety, work or religious reasons.

<sup>60</sup> Two landmark legal cases enshrined this: Fisher vs Oldham Corporation [1930] 2.KB 364 and R vs Commissioner of Police for the Metropolis *ex parte* Blackburn [1968] 2 QB 118

<sup>61</sup> [http://www.met.police.uk/co/territorial\\_support.htm](http://www.met.police.uk/co/territorial_support.htm)



10. Also for consideration is the length of time officers remain in TSG. Hong Kong officers only remained in the Tactical Unit [other than the specialist counter terrorist unit] for a further nine months after completion of training before being rotated back to normal watch and ward duties. It was found that officers who remained much longer on internal security duties with its emphasis on group esprit and discipline became divorced from normal day to day policing and had a tendency to become too aggressive in approach.

#### IN CONCLUSION

11. It should be noted there were several large demonstrations prior to 1 April which did not result in the scenes witnessed on 1 April. I also believe that many officers performed their duties to the best and highest standards. It is these officers just as much as the public that are let down by the lapses of 1 April.

12. There seems to be, in society as a whole, a greater propensity for aggression and offering of violence. In a reflection of my opening quote what I have termed “soft” order now routinely includes anti-stab vests, mace, spring loaded batons et al. To paraphrase Lord Scarman, the police do not create the prevailing social conditions; they are not responsible for the social ills of our times. Yet their role is critical<sup>62</sup>. Time is now ripe for a much wider discussion on the role of police in society. How are they to deal with competing rights? Is there too much emphasis on a libertarian agenda to the detriment of communitarian ideals? Police officers are drawn from the society they police. Attitudes and mores they bring with them to the police service are laid down in the first 20 years of their lives before joining. Should we not be looking at our society and asking ourselves have we not got the police service we deserve?

*May 2009*

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### Memorandum submitted by Stop the War Coalition

#### 1. EXECUTIVE SUMMARY

The Stop the War Coalition has organised more than 30 peaceful demonstrations in central London, as well as numerous other peaceful protests around the country.

We are concerned at the development of a confrontational and aggressive attitude towards our demonstrations on the part of the Metropolitan Police. We set out our evidence below relating to three recent demonstrations in central London:

- George Bush’s visit to London, 15 June 2008
- Israeli attacks on Gaza, 3 January 2009 and
- 10 January 2009

On the two Gaza demonstrations in particular, we believe that the operational decisions of the Metropolitan Police, as well as the behaviour of individual officers, put the safety of demonstrators at risk.

We are concerned that the experience of protestors on these demonstrations may have a repressive effect on future demonstrations and amounts to a restriction of the right to protest.

We submitted a complaint to the Commissioner of the Metropolitan Police regarding the policing of the Gaza demonstrations at the beginning of February 2009 but while receipt of our complaint was acknowledged, at time of writing we have not received a substantive response.

#### 2. DEMONSTRATION AGAINST GEORGE BUSH’S VISIT TO LONDON, PARLIAMENT SQUARE, 15 JUNE 2008

We agree with the comments made by the Campaign for Nuclear Disarmament (our co-organisers of the demonstration, with the British Muslim Initiative) regarding the heavy-handed and violent policing of this demonstration, which led to a number of injuries to protestors.

Like CND, we are also particularly concerned at the suggestion, made to us by a senior police officer, that the demonstration could not be allowed into Whitehall because it might be infiltrated by terrorists. This reasoning appears to us both unjustified and unlikely, and we feel that this spurious use of anti-terrorism concerns to deny us our right to march marked a new low in the policing of anti-war demonstrations.

#### 3. DEMONSTRATION AGAINST ISRAELI ATTACKS ON GAZA, TRAFALGAR SQUARE TO ISRAELI EMBASSY, 3 JANUARY 2009

On 3 January 2009, Stop the War Coalition, together with the Palestine Solidarity Campaign and the British Muslim Initiative, organised a demonstration from Embankment to a rally in Trafalgar Square to protest about the Israeli attacks on Gaza.

We were aware that many of the demonstrators would want to march to the Israeli embassy in Kensington after the end of the Trafalgar Square rally. In negotiations with the police before the demonstration, we were told that they would facilitate this, but their response on the day was precisely the opposite.

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<sup>62</sup> Report on an Inquiry into the Brixton Disorders 10–12 April 1981 by the Rt Hon. Lord Scarman OBE, CMD 8427 HMSO 1981 [para 9.2]

When the Trafalgar Square rally ended, around 5,000 demonstrators marched down Piccadilly towards the embassy. The demonstration was peaceful and Stop the War had no reason to suppose that there were any police problems with it.

When the march reached Hyde Park Corner, a senior police officer announced by loudhailer that they would allow the demonstrators to get to the embassy if they went via the Hyde Park underpass. However, once the head of the march was about halfway through the underpass, it was stopped by a line of riot police.

These officers then proceeded to charge the front of the demonstration, using their batons to strike out at marchers. This was repeated twice more, until a group of stewards were able to speak to an officer in charge—who refused to identify himself—and persuade him to stop the baton charges and allow the demonstration out of the underpass.

The irresponsibility of this unprovoked attack on the demonstration in the restricted space of the underpass should have been evident, since as the marchers at the front of the demonstration attempted to get away from the batons there was a very real potential for serious injuries or even deaths.

As it was, we are aware of a number of the protestors who were hurt by the indiscriminate use of batons by the riot police or who were bowled over as the crowd tried to move back. Many demonstrators were also shocked and distressed as a result of the panic and confusion caused by the police attack.

The march from Trafalgar Square to the Israeli embassy was not large, in comparison to the earlier march from Embankment to Trafalgar Square, and it would have been possible to it to have passed through Hyde Park Corner in a safe and peaceful manner. The police decisions to direct the march into the underpass and then attack it were unnecessary, disproportionate and put demonstrators at serious risk.

#### 4. DEMONSTRATION AGAINST ISRAELI ATTACKS ON GAZA, HYDE PARK TO ISRAELI EMBASSY, 10 JANUARY 2009

The confrontational and aggressive attitude shown by the police on the 3 January demonstration was repeated on the much larger demonstration from Hyde Park to the Israeli embassy a week later, of 10 January 2009.

Stop the War was aware that it was likely to be extremely large and conveyed this in the various meetings held with Superintendent Julia Hendry in the week between the two demonstrations. A number of arrangements to cope with large numbers demonstrators were made, none of which were honoured by the police on the day.

On the contrary, the decision by police to use riot shields and batons to force the crowd outside the embassy back behind police cordons created a crush in which a number of demonstrators were injured, some seriously. One of our stewards asked for the barriers along the pavement to be moved to relieve the crush, as had been agreed before the demonstration, but was told that they were locked and therefore immovable.

As well as the organisational failures, many officers demonstrated an appalling level of violence towards the demonstration in general and to individual demonstrators, a minority of whom may have thrown placard sticks and fireworks towards the embassy, but none of whom were engaged in serious violence.

It is clear to us that there was significant overreaction to demonstrators at the Israeli embassy. Officers reacted with extreme violence to protestors throwing shoes over the gate, despite the fact that it had been specifically agreed at the meeting on Friday 9 January that shoes were not considered to be offensive weapons and that action would not be taken against them being thrown at the embassy.

One 79-year-old demonstrator, who attempted to suggest to the police outside the embassy that their reaction to the shoe-throwing was too violent was himself battered to the ground with riot shields and knocked unconscious. The police officer he approached, before hitting him with a riot shield, instructed him to “get back with the rest of the scum”, which shows the attitude taken by the police to the demonstration as a whole.

We are aware of a number of demonstrators who were injured by batons and riot shields as the police struck indiscriminately at the crowd across the cordons established outside the embassy. Demonstrators towards the back of the march were pushed to the ground by police in riot gear and we believe that tear gas may have been used at one point on this section of the march.

As the rally following the demonstration ended and many protestors started to try to leave the area, they were confronted with road closures and charges from riot and mounted police. Around 1,000 demonstrators, including the rear of the demonstration which the police had prevented from reaching the end point for the march, were arbitrarily detained in a “kettle” in the vicinity of the embassy. They were kept for several hours in sub-zero temperatures before being released, many, in particular Muslim demonstrators, only after they had been searched and questioned.

It is clear to us that the police on the demonstration had little interest in either managing the large numbers of demonstrators or allowing the demonstration to pass off peacefully. That a minority of protestors threw shoes and placard sticks at the embassy should not have provoked the extremely violent police response, and which inevitably led to a response from demonstrators angered at the police attack on an overwhelmingly peaceful protest.

The behaviour of the police seems calculated to intimidate peaceful demonstrators and send a message that we do not, and in particular the Muslim community does not have the right to demonstrate. We trust that the investigations of the JCHR will reverse the worrying trend of aggressive and disproportionate policing of demonstrations and will re-establish the police's role as facilitating peaceful protest.

*April 2009*

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**Memorandum submitted by Zia Trench**

Yesterday made "normal" people never want to protest again. After your scathing report on Climate Change policing, I didn't expect such aggressive, man-handling by Police that caused 90% of the violence at the event

At 11am, I took a photo outside Cannon Street of a dozen protestors on their way to the Bank of England. A police line, herded me into the protest. "I don't want to be in this" I said "Well you are now" he replied. I begged to be let out and he said "if you don't move along, I'll arrest you for breach of peace."

A young girl next to me started crying. She didn't want to be in this either. Journalists reported people couldn't leave after the RBS incident. In fact, I couldn't leave from 11am when nothing was going on at all. I went from exit to exit asking to leave and each time was routed to another exit, told i could leave and when I got there, it too would be closed.

By 2pm, I was panicking. I didn't want to pee in public, as so many people were doing, so I pretended to be pregnant. That still didn't get me let out but a police-woman took me to the shop Oasis and i used their loo. The shop-girl said about 400 police had used the loo before me; members of the public weren't allowed.

When I came out, I started crying because by then it was getting aggressive; people hemmed in for hours, everyone being filmed and no way of escaping.

I met a business-woman who said she came down because if "normal" people didn't, Anarchists would take over. She missed an important meeting and couldn't get her child from school. I met a press officer who also wanted to "pop down" and then was forced to spend the whole day there trying to keep out of police violence. A freelance photographer who couldn't get out, was hit by truncheons as he tried to take photos and man-handles, kettled so he couldn't file his photos. I have names and contacts for everyone I mention in this testimony.

Conversely, thousands of people were kept outside the protest, unable to show their support by another line not letting anyone in.

When did we lose the right to protest? When did protesting mean being trapped and degraded, like an animal' inside tiny area? When did protesting mean being punished?

*April 2009*

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**Supplementary memorandum submitted by Simon Gould**

**TERRORISM ACT—SECTION 44**

A Tibet Society website item had suggested people might like to take photos of themselves with the Tibet flag to be put on the website during the month of March 2009. On Friday 6 March I cycled into Central London with a friend to do that. Outside 10 Downing Street was one location we chose. After taking a few photos we cycled towards Trafalgar Square where two police motorcyclists and a red patrol car with siren blaring pulled us over for questioning under Section 44 of the Terrorism Act, as to why we were photographing outside Downing Street and as to the content of the film. The police were concerned that we might have photographed police officers outside Downing Street in order to identify their numbers and subsequently start up police hate website pages. Because the camera was digital the police were able to look at the photos and reassure themselves that the police officers in our photos were only in the background and could not be identified by their numbers. The police questioning was perfectly cordial but I did point out that if my purpose had been to photograph individual police officers outside Downing Street, as possibly dozens of tourists and passers by do every hour, I wouldn't be likely to do it holding a Tibetan Flag.

I question whether this is a correct use of power under the Terrorism Act.

We then cycled on and after a couple more locations we arrived at the Chinese Embassy where we took more photos. We were again questioned under Section 44 of the Terrorism Act. I must emphasise that the DPG police officer was very friendly in his questioning but told us that he was following current procedures which would cover the eventuality that we might later carry out some public order offence.

Although I appreciate that embassies are sensitive locations which require close supervision under the Vienna Convention, I would question whether Section 44, Terrorism Act should have become "standard procedure" in questioning people.

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## KETTLING/PENNING

In the current debate about the use of the tactic known as “kettling” i’d like to make some comments about the use of penning in general.

In order to carry out one’s democratic right to peaceful protest one needs to be close enough to the desired location to be relevant or effective. Even when demonstrators are free to come and go, penning, creating an area for demonstrators to stand in surrounded by metal barricades, can be used by the police to keep demonstrators far from the location. Of course it is understandable that the police may use penning to keep protestors from obstructing public pavements or from straying into the path of motor transport, but often they are used to restrict or prevent legitimate protest. Once that happens, as with kettling, it can lead to protestors demanding their right to protest properly and sometimes trying to implement that right for themselves.

In 2005 during the Arms Fair demonstrations at Excel in Docklands a dinner was held for Arms Dealers and, I believe, Government representatives at the Dorchester Hotel in Park Lane. I was part of a cycle ride that intended to cycle past the hotel and then join the protest against the dinner. However, while riding we learnt that the police had located the pen on the Hyde Park side of Park Lane, which is about six lanes of traffic and a central reservation away from the hotel. It was also about 30 metres further up Park Lane. We therefore had no alternative we felt other than to drop our bikes in the road as we cycled past the Dorchester and protest there. It took the police some time to clear us, but during that time was the only time we were able to carry out democratic protest (we had no intentions beyond waving placards and shouting slogans).

In 2007 during the next biennial Arms Fair there was again an Arms dealers’ dinner at the Dorchester Hotel and again the pen was positioned in the same unreasonable location, making legitimate protest impossible.

It will be interesting to see what happens in September 2009 if there is an Arms dealers’ dinner again. Will the police allow a demonstration within what I would call a democratic distance of the event?

## GAZA INVASION DEMONSTRATIONS

Following Israel’s invasion of Gaza I witnessed events during the London demonstrations that I would like to share with the Committee.

*28 December*

The first demonstration took place in High Street Kensington on Sunday 28 December in the afternoon. About 600 protesters were already assembled behind the barriers on the South side of High Street Kensington, opposite the gated entrance to Palace Green, when I arrived. Before joining I decided to walk along the north side of the road. Just as I walked in front of the gates a man threw his shoes at them. They were not thrown at any person just towards the gates leading to a road (the Israeli Embassy is a fair distance down that road). As I started to smile, because of the recent connotation given this action by Muntadhar Al-Zaidi’s shoe throwing at George Bush, I was surprised to see police grab this man, struggle with him, trying to arrest and handcuff him. Some people then came and dragged him away from the police, while at the same moment this acted as a catalyst for all the protestors to surge across the road and occupy the area in front of the gates and High Street Kensington. There were by now well over 1,000.

Later on the police decide to clear the area of High Street Kensington immediately in front of the gates to Palace Green and this was done, after a break for prayers in the road, with pushing and batons. It seemed to me that the whole flavour of the afternoon/evening’s events was set by the initial police tactics of overreaction to an innocuous action-shoe throwing.

*3 January*

On Saturday 3 January following a march from Embankment there was a rally in Trafalgar Square, and following that there was a march of thousands which set off from the south west corner of Trafalgar Square to the Israeli Embassy. The march began as a very slow pace, as it was led initially by police officers walking slowly backwards facing the marchers. At that rate it would have taken several hours to reach the embassy. It was not surprising to see marchers break through the line. A running skirmish developed on the left side of Pall Mall but by the time the march reached Piccadilly things had calmed down. The march was now progressing at a reasonable pace. However, at Hyde Park Corner the police directed the march into the underpass where it was held for a long time, possibly half an hour, and at one point riot police could be seen running into the underpass from the Knightsbridge end. From here to the Embassy progress was slow and only about 700 of the original thousands arrived at the embassy, the majority having dispersed en route. While I am not writing to defend the skirmishing I am sure the initial police tactics triggered it. If the march had gone at a reasonable pace would there have been trouble and can what took place in the underpass at Hyde Park Corner really be called “proportionate”?

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In any discussion of the G20, in April, consideration also needs to be given to the Gaza demonstrations in December and January. Did police tactics on 28 December and 3 January contribute or lead to the violence on the 10 January march (which I did not witness) and did the whole atmosphere from these demos carry over into the G20 (including also some events on the 17th January Gaza event not covered here)? I do not believe police act without orders.

*28 April 2009*

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