

Threats to the right to freedom of peaceful assembly and of association

Draft Briefing Paper for Litigating Assembly And Association Rights
—A New Project From The UN Special Rapporteur



Defend the Right to Protest Oct 2014

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Cover image shows Alfie Meadows who had to receive life-saving emergency brain surgery after being hit on the head with a police baton.

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Introduction

Defend the Right to Protest was initially formed in response to the violent policing and criminalisation of student protesters during a series of major education demonstrations in Autumn 2010. Students were subjected to kettling, horse charges, a media witch hunt, mass arrests and disproportionate criminal charges; notably of violent disorder. One protester, Alfie Meadows, required emergency brain surgery after he was hit on the head with a police baton. 12 protesters were given prison terms, although 18 of the 19 protesters who were monitored and contested the violent disorder charges were acquitted.

These events followed the death of Ian Tomlinson, a bystander who became trapped in a police kettle during the G20 protests in 2009. In the same year 54 young protesters were convicted of charges relating to demonstrations against Operation Cast Lead in Gaza. 29 received prison sentences, although again the vast majority who pled not guilty were acquitted.¹

Civil rights lawyers pointed to these events as indicative of a shift towards more aggressive policing and disproportionate charging of protesters.

Defend the Right to Protest was amongst others in identifying the global context of austerity and anticipated rise in protest, as an important factor in this shift. Just weeks before the 2010 student protests, for example, president of the Police Superintendents Association Derek Barnett warned “In an environment of cuts across the wider public sector, we face a period where disaffection, social and industrial tensions may well rise... We will require a strong, confident, properly trained and equipped police service.”² More recently ACPO’s briefing on water cannon states: “there is no intelligence to suggest that there is an increased likelihood of serious disorder within England and Wales. However, it would be fair to assume that the on going and potential future austerity measures are likely to lead to continued protest.”³

In this briefing we identify key trends in the policing of protest and application of public order legislation which we believe are undermining the right to freedom of peaceful assembly and association, as they have developed since 2010 – supported by the testimony of protesters themselves. Of particular, but no means exclusive concern, is the way in which some of these practices – for example the imposition of protest bans as part of pre-charge bail – are circumventing the judicial process altogether. At the same time cuts to legal aid are also removing people’s access to specialist lawyers or representation that has proven so crucial for protesters challenging their charges, or later taking action as a result of unfair treatment.

We hope this initial briefing will encourage further examination of these key areas and for others who have direct experience to come forward with further testimony. .

Modern tactics & strategies for crime control: intelligence & disruption

It has been observed that the policing of protest has moved from a model of ‘escalated force’, typified by the violent tactics of the 1960s which sought to suppress any form of protest, to one of ‘negotiated management’, which attempts to engage with protest organisers in order to police protests more proportionately.⁴ Whilst the latter approach purportedly seeks to uphold the convention rights of protestors, there is a trade-off. Under

1 Jo Gilmore, This is not a riot! Public Protest and the Impact of the Human Rights Act, 2013, Chapter 3, pg.80-81

2 The Guardian, Police: we can’t take care of cuts protests if you cut us, Mon 13th Sept, 2010

3 https://www.london.gov.uk/sites/default/files/ACPO%20Water%20Cannon%20Briefing%20Document,%20Jan%202014_0.pdf

4 Fernandez, Policing Dissent: Social Control and the Anti-Globalization Movement (Rutgers University Press, 2008) 12-15

s.11 Public Order Act 1986 protest organisers must engage with police when planning an event and this dialogue generally results in police imposing conditions such as a particular march route. In engaging in such a dialogue, protest organisers become complicit in the dilution of the potency of the protest. For example, the NUS march against rising tuition fees in November 2012 followed a route which ended in Kennington Park, a location which was completely out of the way and had minimal impact. This led to widespread frustration amongst participants who felt that their message was completely ignored, and the march was widely regarded amongst student activists as farcical.⁵

The police also benefit from this approach as it allows them to obtain intelligence on the protest and in particular, the likely attendees. This is consistent with the principles of Intelligence-led policing (ILP), which now forms the basis for all British policing. ILP has been described as:

“a business model and managerial philosophy where data analysis and crime intelligence are pivotal to an objective, decision-making framework that facilitates crime and problem reduction, disruption and prevention through both strategic management and effective enforcement strategies that target prolific and serious offenders”⁶

Police will therefore seek to maximise the amount of ‘intelligence’ available to them. Crucially, this intelligence will generally be distinguishable from evidence – in that it may not necessarily relate to criminal activity. When applied to the context of protest rather than, for example, organised crime, this has ramifications for the human rights of those involved in the activity.

ACPO’s guidance on the National Intelligence Model states that the purpose of intelligence analysis is to “support strategic decision making and the tactical deployment of resources to prevent...detect and disrupt criminal activity”. The objective of disruption is a relatively new phenomenon and can be distinguished from the more traditional methods of crime control. This disruption-directed model has been described as “circumvent[ing] the formal justice system in order, more easily, to effect the speedy closure of a given problem.”⁷

Such an approach completely disregards protestors’ rights to assembly and to freedom of expression, seeking to effectively stamp out protest pre-emptively rather than having to police it responsively and proportionately, and many of the current tactics employed by British police – detailed in this paper – are symptomatic of such an approach.

Whilst disruption-directed policing may indeed prove useful in the fight against serious/organised crime, when applied to protestors it has “the potential to disrupt and deter the act of protest itself.”⁸ – This is completely at odds with the European Convention on Human Rights.

Kettling, mass arrests, bail conditions, violence & intimidation

Intolerance of protest accelerated following the financial crisis of 2008, and is reflected in a range of tactics that make up today’s austerity policing. Policing of the 2009 anti-G20 protests in London, which led to the death of Ian Tomlinson, demonstrated this shift: one in which violence and intimidation tactics are employed in tandem with an increasingly obvious long-term strategy to gather intelligence on protesters, and ultimately to undermine dissent.

5 <http://www.theguardian.com/education/2012/nov/21/student-march-eggs-anger>

6 Ratcliffe, *Intelligence led Policing* (Routledge, 2012)

7 Johnston, *Politicising Britain: Risk, Security and Governance* (Longman, 2006) 61

8 Val Swain <https://www.opendemocracy.net/opensecurity/val-swain/disruption-policing-surveillance-and-right-to-protest>

While the use of containment areas known as ‘kettles’ was seen prior to 2009, their deployment as a tactic in the policing of protests has been on the rise since this point, and has moved far beyond any legitimate claim of protection of public order and safety. The student protests of 2010 culminated in protesters being kettled on Westminster Bridge in freezing conditions, at night, for hours. Reports of the dangerous conditions within the kettle demonstrate current disdain for protest, and for those engaged in dissent – regardless of how peaceful they are. These actions were challenged in the ECtHR, but in 2012 the Court determined that the police had acted lawfully. A group of children kettled during the student protests claimed that this breached not only their human rights but the Convention on the Rights of the Child and the Children Act; their case was also dismissed by the Court.

Following the G20 protests in 2009, an inquiry into kettling was launched, and a review ordered by Scotland Yard. In 2011 the High Court decreed that kettling was a lawful tactic when used as a last resort to avoid violence, but these guidelines are clearly not being adhered to. While the threat of being kettled is no doubt sufficient in itself to deter many from engaging in protest, this is not the only way this tactic is employed to undermine protest: police were also enforcing the provision of personal details and the taking of photos by Forward Intelligence Teams (now Evidence Gathering Teams) as conditions for leaving the kettle. This was successfully challenged in *Mengesha v Commissioner of Police of the Metropolis* [2013], in which the courts deemed the forced gathering of intelligence in return for release from a kettle as unlawful.

In the wake of this ruling has been an increasing prevalence of mass arrest as an alternative intelligence gathering technique at protests. There is no obligation to divulge your personal details on arrest, but this is not how the situation is presented to arrestees. Not only is being arrested an intimidating experience, and therefore one where many will obey those in power without question (particularly when they are presenting demands as legal requirements), but those choosing to give those details may also be given preferential treatment, such as being detained for far shorter periods when not charged than those who have chosen to keep their identity secret. This encourages many to relinquish their details on arrest, and facilitates ongoing surveillance of dissent in the UK. It should also be said that intelligence gathering as a long-term strategy is also supported by the increasing presence of Evidence Gathering Teams at protests, Police Liaison Officers, and the disturbing use of undercover operatives. Further, Stop and Search powers have come under fire for being abused in protest situations as an additional evidence-gathering technique (despite the fact that again there is no obligation to give out personal details under most Stop and Search powers).

Evidence for the use of arrest as intelligence gathering strategy, rather than in response to genuine concerns for public order, can be seen in the fact that so few people are charged or convicted following the arrest. The July 2012 Critical Mass in London saw 182 individuals (including a 13 year old) being arrested and bussed out to various police stations around the capital. Of these, nine were charged, with four being convicted – and almost all had to wait for hours on the buses to be processed. Even though Critical Mass has happened for the last 18 years on the last Friday of the month, this event coincided with the Olympics, and the heavy-handed police response perhaps showed less a genuine concern for public order, and more the political pressure to not allow protest to be visible when all eyes were on the UK.

Critical Mass is by no means an exception; mass arrest has been used repeatedly as a tactic that takes activists out of the equation for many hours, intimidates those involved in protest, and supports the continued surveillance of those active in protest movements. In 2011 UK Uncut organised the occupation of Fortnum and Mason in London, leading to over 150 arrests (including minors) and over 140 individuals being charged with aggravated trespass – 109 then had their charges dropped, some were cleared in court

and 19 received convictions. More recently, at an anti-EDL rally in Tower Hamlets in 2013 almost 300 people were arrested (after being kettled and detained for up to 15 hours), but only two charged and one convicted. A 2013 anti-BNP action saw 58 arrests with five charged and all the cases dismissed in court.

The use of mass arrest directly links to another tactic now rolled out to target and control protesters: bail conditions. Activists are being given restrictive bail conditions preventing them from attending further protests, and in the case of the Cops off Campus protests of 2013 one individual (who was not charged) had conditions imposed upon him that would have precluded from entering certain University buildings, thereby preventing him doing his job. In other cases, anti-fascist protesters have also been given bail conditions preventing them from attending future anti-fascist demonstrations – thereby strategically weakening movements and punishing protesters through the threat of future arrest. This worrying new practice allows police to effectively outlaw protest without having to go to the effort of subjecting individuals to the criminal justice system which, for all its faults, at least provides basic safeguards such as the need to be proven guilty beyond all reasonable doubt. Subverting these safeguards places justice purely in the hands of police rather than courts, making it a completely arbitrary exercise which ignores the fundamental rights of those who find themselves arrested.

In a recent ruling clearing two protesters of assaulting police officers in the execution of their duty at the Cops off Campus protest, the judge specifically noted the heavy-handed manner in which the protest was policed. Hugely overbearing and unnecessary police presence at protests is becoming commonplace, particularly at those protests in which direct action is employed, or with potential for high publicity. For example, anti-fracking protests have been targeted in a manner completely incongruous with their size and peaceful nature – with large numbers of arrests following, many then falling apart in court. The arrest and charging of Caroline Lucas MP at an anti-fracking demonstration in Balcombe was one of the most publicised of these arrests. Although she was cleared of the charges against her, her arrest (and the arrests of others) demonstrate the level of intolerance for protest – and have left many questioning the police's priorities. Recently too, DPAC's action at Westminster was met with 300 police, completely overwhelming the protesters, who numbered less than half as many.

Police violence at protests is a growing concern with horse charges and baton strikes being used in inappropriately and in situations in which it is difficult to justify them, such as at the 2010 student protests. Footage shown during student trials relating to the 2010 demonstrations, for example, showed widespread use of baton strikes aimed at protesters upper body and horse charges into contained crowds. Recently, anti-fracking protesters at Barton Moss were subjected to repeated brutality by the GMP, seemingly with impunity – adding to a growing theme of seemingly targeted violence against individual protesters. During the June 2013 anti-BNP demonstration, one protester Amy Jowett, sustained a broken leg (and life changing disability) after being kicked repeatedly by a police officer. Police witness evidence relating to the day revealed such kicks to protesters knees were not an isolated incident.

The danger is that these tactics act to deter many from engaging in protest, leaving only those most dedicated to their particular cause, or with the least to lose, willing to act. Combining this with the fact that there is a concerted effort to make protest ineffective, with stewards almost forced to self-police their own demonstrations and only the most tame protests allowed to proceed, renders protest inherently risky on the one hand, and frequently stale on the other.

Law

Violent Disorder

DtRtP is particularly concerned with the way in which the offences set out in the Public Order Act 1986 – in particular violent disorder, which carries a maximum term of five years' imprisonment, have been used against protesters in recent years. Protesters should not be criminalised for exercising their fundamental rights to expression and association, and those who might engage in protest activity should not be deterred from doing so for fear of being criminalised.

When proposing reform of public order law in 1983, the Law Commission emphasised the need to act in a cautionary manner in view of the close connection between public order offences and fundamental freedoms.⁹ However the offence of violent disorder eventually delimited in s.2 of the Act has been used extensively against individuals arrested in the course of or following their involvement in protest activity. This raises a series of profound concerns around how the Public Order Act can be reconciled with fundamental freedoms of assembly and expression, threatening our rights to engage in protest.

Violent disorder is committed where 3 or more persons who are present together use or threaten unlawful violence, and the conduct of them (taken together) is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety. No person of reasonable firmness need actually be, or be likely to be, present at the scene, and the offence may be committed in private as well as in public places. The offence is a very serious one, used to charge behaviour which is considered to amount to serious disorder, but which falls short of the offence of riot. On indictment, the offence is punishable with a maximum of five years imprisonment and a fine. Although the offence is triable either way, Crown Prosecution Service (CPS) guidance, in recognition of the seriousness of the offence, makes clear it is “highly unlikely that any offences of Violent Disorder will be suitable for summary trial”.¹⁰

Violent disorder has been described by criminal defence lawyer Matt Foot as “a catch-all charge... normally reserved for serious football violence”¹¹ but is now regularly used against protesters. Whereas previously individuals arrested during protests tended to be given cautions, tickets and fixed penalty notices, violent disorder charges have risen alarmingly – a trend which appears to have begun in 2008, when 12 protesters were charged with the offence following the anti-war protests in Parliament Square on 15 June as George W Bush visited London.

The use of violent disorder against protesters represents a practice of ‘overcharging’ by the police and CPS. This very serious offence has been applied to behaviour which should have attracted a less serious charge or none at all. Due to the pressure placed on individuals to plead guilty, overcharging leads to the very likely possibility that individuals will receive unjustified or disproportionate sentences. The statistics relating to charges of violent disorder against protesters in recent years demonstrate its operation as an overcharge. The vast majority of protesters who have pleaded not guilty in recent years have been acquitted. Following the 2009 protests against Israel’s assault on Gaza, 10 months after the demonstrations, 126 young protesters of good character were charged with violent disorder (out of 148 in total). In all 72% pled guilty and 29 people were sent to prison for between 2 months and two and half years. However 15 of the 17 protesters that maintained not guilty pleas were acquitted.¹²

9 Ibid., para. 2.2.

10 CPS, Guidance for Prosecutors for Charging Public Order and Other Offences, August 2011. Available at: [http://www.cps.gov.uk/legal/p_to_r/public_disorder_-_guidance_for_prosecutors_on_charging_public_order_and_other_offences_\(august_2011\)/#violentdisorder](http://www.cps.gov.uk/legal/p_to_r/public_disorder_-_guidance_for_prosecutors_on_charging_public_order_and_other_offences_(august_2011)/#violentdisorder)

11 Matt Foot, ‘Get Protest in Perspective and Free Charlie Gilmour’, Evening Standard, 3 October 2011.

12 Jo Gilmore, This is not a riot! Public Protest and the Impact of the Human Rights Act, 2013, Chapter 3, pg.80-81

We observe a similar pattern with student protesters in recent years. 58 protesters, all young and of good character, were charged with violent disorder, of whom 12 received prison sentences. Of the 19 students who fought the charges following the 2010 protests, 18 were acquitted. The CPS had failed to prove that students had engaged in unlawful violence, and the statistics suggest that had more protesters fought the charge of violent disorder, more acquittals may have resulted. There is thus a real possibility that unjustified and/or disproportionate sentences are being given to those who may have been wrongly charged and pressured into pleading guilty.

When proposing the offence of violent disorder in 1983, the Law Commission clearly intended it only to be used for very serious criminal activity within the context of public disorder. The criminal law already provides for a wide range of offences to deal with violence used against the person and property. In its 1983 report, the Commission stated that the charge would be “appropriate for use only when the extra gravity of the circumstances of the group’s conduct is such as to justify prosecution for such an offence”.¹³ The Law Commission makes clear, for example, that “missiles” thrown, whether or not they hit their target, may consist of violence providing that the missile is “capable of causing injury”. Thus, according to the Commission, “a paper dart would... not qualify”.¹⁴ The types of violent conduct envisaged by the Commission instead included “the wielding of a lethal instrument or the discharge of a firearm in the direction of another”. In spite of this, we have in recent years seen protesters charged with violent disorder after throwing or waving placard sticks¹⁵; one protester famously received a twelve month sentence for throwing one empty plastic bottle at a gate.¹⁶

Part of the problem may be that CPS guidelines do not clearly reflect the need for gravity of violence in order to justify the charge. Despite the Law Commission’s insistence that missiles thrown be “capable of causing injury”, the CPS guidelines merely state “serious disorder at a public event where missiles are thrown...”. Not only is it clear that the Law Commission had in mind a very high threshold of violence in the context of a severe level of disorder when proposing the offence, but it also acknowledged the need for caution when dealing with an area of criminal law so closely associated with fundamental freedoms. In spite of this, we have witnessed the charging of activity which would not only appear to fall well below the threshold of severity envisaged by the Law Commission, but which also took place in the context of political protest.

Conditions and restrictions on public assembly: ss.12-14

It is not just through charges and false accusations of violence that protest is being curbed and controlled, but through physical conditions placed on protests themselves. s.12 of the Public Order Act allows police to impose conditions on public processions, and s.14 permits the same powers in relation to public assemblies (a public assembly being two people or more in a public space). Limits can be imposed on an assembly’s size, duration and location.

The senior officer in charge of policing a specific protest is permitted to impose conditions under ss.12-14 if they ‘reasonably believe’ these are necessary to ‘to prevent serious public disorder, serious criminal damage or serious disruption to the life of the community’. This level of discretion has led to the powers being enacted not in situations with potential for serious disruption to public disorder, but as a blanket policy. For example, s.14 conditions were imposed on the relatively small and entirely peaceful group of anti-fracking protesters at Balcombe – it is difficult to see how this was for the protection of the community, especially given that many of the protesters were themselves from the local community.

13 *The Law Commission Report, note 2 above, para. 5.29.*

14 *The Law Commission, note 2 above, para. 5.33.*

15 For example, in July 2010, Frances Fernie, then 20 years old, was sentenced to 12 months in a young offenders’ institution for throwing two placard sticks, which hit nobody.

16 <http://www.theguardian.com/theguardian/2010/mar/13/gaza-protesters-sent-prison>

The wide open powers granted to police creates a situation in which protesters are permitted to exercise their democratic right to protest, but only within restricted parameters defined by the State. These conditions enable the creation of ‘protest pens’, segregating the protest from the public, thereby minimising its efficacy. Any abuse of these powers can be later justified by the senior officer, who can simply state they believed the order was necessary.

The powers under ss.12-14 not only enable police to impose physical restrictions on protest but also provide a convenient excuse to arrest protesters (breach of the conditions being an offence), and to gather intelligence on those individuals involved. Therefore purported breaches of ss.12-14 conditions are usually used by police as a justification for the mass arrests followed up with restrictive bail conditions – it is clear to see that these are both consistent with the intelligence-led and disruption-directed modes of policing described previously.

Many charges fail in court as it is difficult to prove that someone ‘knowingly’ breached the conditions of the protest, a stipulation which is necessary for conviction. To counter this, Protest Liaison Officers are brought out to hand around s.12/14 notices (e.g. July 2012 Critical Mass) or make announcements. These interactions can be filmed by EGTs, and then used to support prosecution for violation of the order. This calls the police’s priorities into question – are these orders genuinely being exercised for the benefit of public safety, or are they being used as a tool to enable arrest and ‘catch out’ protesters? In fact, the use of s.12 and s.14 alongside other provisions – such as obstruction of the highway, breach of the peace, and various by-laws – demonstrates police determination to limit protest in whatever way permissible to them.

This is a developing trend in public order policing, one that appears to concern itself with intimidation and intelligence gathering – and not with genuine concern for public safety and order

How police violence shapes the political narrative of protest

The use of the Public Order Act 1986 against protesters has significant political implications – diverting public attention away from the political message of the protesters and instead presenting them as having engaged in disorderly and criminal behaviour. This also needs to be viewed alongside the heavy-handed, often violent policing which takes place at protests. This concern was echoed by the UN Special Rapporteur’s report on freedom of assembly and association on his visit to the UK in January 2013.¹⁷

The use of public order offences to target those who have engaged in protest in the face of police violence has a long history. 95 miners who picketed at Orgreave on 18 June 1984 were not only attacked by police, but were later charged with the most serious public order common law offence of riot. The cases against them were later dropped after police officers gave unconvincing accounts on the stand and a signature on an officer’s statement was shown to have been forged.

More recently, we have seen a series of trials arising from the student protests of 2010 in which evidence revealed the use of horse charges and indiscriminate baton strikes against protesters who were at the time subject to a containment or “kettle”. In spite of this, it is the protesters who have been charged with violent disorder. Most recently, Alfie Meadows and Zak King succeeded in their plea of self-defence against violent disorder charges relating to the student protest of 9 December 2010. Alfie Meadows’ case is of particular concern because he had to receive life-saving emergency brain surgery after being hit on the head with a police baton at the protest. Another high profile case, that of the Hilliard

¹⁷ See ‘Statement by the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association at the conclusion of his visit to the United Kingdom’ (January 2013). Available at <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12945&LangID=E>

brothers, accused of pulling an officer off his horse, exemplifies the politicised nature of the prosecutions of the student protesters. David Cameron himself risked influencing the outcome of the legal process when he publicly drew attention to the case, claiming that police had been “dragged off horses and beaten”. In fact, evidence emerged during the trial that a mounted officer had pulled Christopher Hilliard’s hair before coming off his horse. The defence succeeded in their argument that it was this, along with the officer’s failure to follow the normal procedure of tightening the girth on his horse, that led to his unseating. Not only are protesters being criminalised for engaging in political protest in opposition to government policy, but they are also being accused of engaging in violence and prosecuted in an attempt to cover up police wrongdoing.

In the case of *R v Meadows*, the trial judge, Moore J, was concerned that the jury were shocked and upset by the evidence of police violence used against protesters on the day of the protest. Addressing the jury in the course of summing up, Moore J said:

“It is imperative that you set political feelings, or hostility or perhaps sympathy aside. It is not your job to assess the lawful nature of police action. In a case like this it is very easy to be sidetracked into collateral issues. It is imperative that you look at evidence that is relevant to the issue to determine.”¹⁸

The question of police violence is, however, far from being merely “collateral” to the question of the alleged violence on the part of protesters. The police are not neutral observers at public order events, but actively relate to those they are policing. If their tactics antagonise protesters, this needs to be borne in mind when any violence that may result is considered, not just in terms of considering a plea of self-defence, but more importantly at the stage the decision to prosecute is being made.

Unfortunately the CPS guidelines on when to prosecute protesters fail to account for the role played by police officers in creating the conditions for violence in their policing of public order events. According to guidelines issued last year, certain factors make it “more likely” that prosecuting a protester will be considered to be in the public interest. The guidelines are intended to aid prosecutors when differentiating “between violent or disruptive offenders” and those “whose intent was...peaceful”.¹⁹ Problematic is the underlying assumption that individuals attending protests necessarily have either peaceful or violent intentions. In fact, violence more frequently flows from police practices, including kettling, the use of batons, agents provocateurs, undercover officers and dispersal techniques such as horse charges. Research on crowd behaviour has shown that the behaviour and presence of police at public order events affects to a significant extent the behaviour of the crowds they are policing. Indeed, heavy-handed policing has been shown to increase rather than decrease ‘disorder’ as alienated individuals transform into collectives resisting and defending themselves against police violence.²⁰ In the course of his research on crowd behaviour, Chris Cocking conducted a series of interviews with protesters subjected to police tactics such as horse and baton charges, concluding that police violence is a significant cause of ‘violence’ on the part of protesters. One participant, who attended an anti-tuition fees protest in 2010, when questioned about how s/he and the people around her reacted to a horse charge gave the following responses:

P: There was a sort of initial panic, as people ran back...fleeting would be the way I would describe it – there was a sort of shock that they should be charged... that you’ve got to turn and run, because if you don’t run, you’re

¹⁸ *R v Meadows and King* (unreported 2013).

¹⁹ CPS guidelines on Public Protests, http://www.cps.gov.uk/legal/p_to_r/public_protests/

²⁰ See C. Cocking, ‘Crowd flight during collective disorder – a momentary lapse of reason? *Journal of Investigative Psychology & Offender Profiling*. DOI: 10.1002/jip.1389 (2013); S. Reicher, ‘The psychology of crowd dynamics’ in M. A. Hogg, & R. S. Tindale (eds.), *Blackwell handbook of social psychology: Group processes* (Oxford: Blackwell, 2001); S. Reicher, C. Stott, P. Cronin & O. Adang, ‘A new approach to crowd psychology and public order policing’ *Policing: An International Journal of Police Strategies and Management*, 27, (4) (2004), 558–572.

gonna get trampled by a horse, or hit with a baton, erm...and then very quickly a re-groupment, and a realisation that what the police was doing was outrageous, and that there was no need to panic, and actually, you should turn round and have a go back.

Int: can you remember how you felt after the charges, and how the crowd behaved?

P: It was like they were going back into battle... before the charges, there was less togetherness, but the charges actually provoked people to come together to go back as groups... once the police attacked, the response was 'we're gonna go back in there', and I saw kids pick up placards, sticks... There was a real sense that 'we wanna go back in and have a fight'.²¹

This contradicts the concept reflected in the current CPS guidelines on prosecuting protesters, which assume that individuals come to protests with violent intentions.

Breach of the peace & common law powers:

The police have a common law power to prevent breaches of the peace. There is no associated criminal charge, rather police can exercise their powers to quell or prevent a breach of the peace whilst one is occurring or is imminent. Such powers have been described as “immensely broad and bewilderingly imprecise”,²² and the wide discretion afforded to police means that the rights of protesters may not be given due consideration.

This was demonstrated in the groundbreaking case of *Laporte v Chief Constable of Gloucestershire (2006)*²³ – noted as the first case in which the Courts truly recognised a right to protest under Art.11 ECHR and a positive obligation to uphold it under the Human Rights Act. The claim arose when three coaches carrying protestors to an anti-war demonstration at RAF Fairford were stopped by Police and returned to London, denying any of the passengers the opportunity to get off the coaches and reach their intended destination. Police had argued that a breach of the peace was imminent as some of the protesters on board were known to have been involved in disorder and violence.

The House of Lords warned that pre-emptive interference with Convention rights required particularly careful scrutiny; the police's actions were found to be unlawful as there was no imminent breach of the peace at the time at which the coaches were intercepted.²⁴ The Court also disapproved of the sweeping, disproportionate nature of the response, noting that it was:

“wholly disproportionate to restrict [the claimant's] exercise of her rights under articles 10 and 11 because she was in the company of others some of whom might, at some time in the future, breach the peace.”²⁵

The issue was considered more recently in the now infamous case of *Austin v UK*²⁶, which arose after the kettling of several thousand protesters for several hours on May Day in 2001 due to an imminent breach of the peace. One protester and three bystanders who were caught up in the containment argued that their art.5 rights to liberty had been breached. The claim was rejected by the European Court of Human Rights who based their decision

21 C. Cocking, *ibid.*, 9.

22 Helen Fenwick “Marginalising human rights: breach of the peace, “kettling”, the Human Rights Act and public protest” P.L. 2009, Oct, 737, 738

23 R (on the application of Laporte) (FC) v Chief Constable of Gloucestershire [2006] UKHL 55

24 [39]

25 [55]

26 *Austin & others v United Kingdom* (2012) 55 EHRR 14

on an unconventional legal analysis which has been criticised by many academics.²⁷ Taking a pragmatic view, it is difficult to see how being contained within a crowd of several thousand people for seven hours with no access to shelter, food or toilets could not amount to a deprivation of liberty; the case therefore illustrates the inherent problems with granting such a broad discretion to police when the human rights of protesters are at stake.

It should be noted that the Joint Committee on Human Rights argued in their 2009 report on policing protest that:

“...the better approach is to draft legislation itself in sufficiently precise terms so as to constrain and guide police discretion, rather than to rely on decision makers to exercise a broad discretion compatibly with human rights.”²⁸

This argument has so far fallen on deaf ears, but we believe it to be a crucial one; it will be difficult to suitably safeguard the human rights of protesters whilst broad discretionary powers are handed to the police.

²⁷ <http://strasbourgobservers.com/2012/04/17/the-right-to-protest-contained-by-strasbourg-an-analysis-of-austin-v-uk-the-constitutional-pluralist-issues-it-throws-up/>

²⁸ Joint Committee on Human Rights, Demonstrating respect for human rights? A human rights approach to policing protest (23 March 2009), 21

Obstruction of highway

Obstruction of the highway has an obvious relevance to the issue of protest and the right to freedom of assembly. As such it is an area in which some judicial guidance has been given as to how and when protesters' art.10 and 11 rights should be weighed up against offences.

Under s.137 Highways Act 1980 the offence of wilful obstruction of the highway occurs when a defendant wilfully obstructs the free passage along the highway without lawful authority or excuse. This charge was recently used against a group of anti-fracking protesters including MP Caroline Lucas. In acquitting the defendants the Judge noted that the protesters' article 10 rights to freedom of expression were a "significant consideration to take into account" when considering the reasonableness of the obstruction.²⁹

Civil remedies such as possession orders and injunctions are also available to public authorities who wish to end long-term protests on the grounds that they are obstructing the public highway.

In *Mayor of London v Hall*³⁰ the Mayor sought a possession order over Parliament Square Gardens, which had been occupied by the 'Democracy Village' protest camp for two months. The claim for possession was successful, however the Court observed that in the circumstances, despite the unlawful nature of the protest, art.10 and 11 rights of its participants were engaged and needed to be taken into consideration. Lord Neuberger noted that in cases like this the Court must "focus very sharply and critically on the reasons put forward for curtailing anyone's desire to express their beliefs – above all their political beliefs – in public."³¹

City of London v Samede concerned the 'Occupy LSX' camp which was set up outside St. Paul's Cathedral and remained there for a number of months. The Court recognised the issue at stake was "the limits to the right of lawful assembly and protest on the highway", which is "in a democratic society a question of fundamental importance." Following the *Hall* decision the Court of Appeal found that the protesters' article 10 and 11 rights were clearly engaged but that the possession order was justified. The Court did set out a list of factors that should be considered in weighing up the competing interests, which include:

*"...the extent to which the continuation of the protest would breach domestic law, the importance of the precise location to the protesters, the duration of the protest, the degree to which the protesters occupy the land, and the extent of the actual interference the protest causes to the rights of others, including the property rights of the owners of the land, and the rights of any members of the public."*³²

It also pointed out that the "general character" of the views being expressed should be taken into account, such that "political and economic views" will be given a higher degree of credence than "pornography and vapid tittle tattle".

From these cases we can observe that Courts are more than willing to recognise that article 10 and 11 rights are at play in protest cases, even where the protest action itself is otherwise unlawful.

²⁹ *R v Dobraszczuk & others* (unreported, 17 April 2014) – judgment available at <<http://investigatingbalcombeandcuadrilla.com/2014/04/17/judgement-in-caroline-lucas-trial-acquittal-on-all-charges/>> accessed 23 June 2014

³⁰ *Mayor of London v Hall & Others* [2010] EWCA Civ 817

³¹ [43]

³² [39]

Forward Intelligence and Evidence Gathering Teams

Forward Intelligence Teams (FITs) and Evidence Gathering Teams (EGTs) were first deployed in 1999 in response to football hooliganism but in more recent years have become a staple of protest policing. The National Domestic Extremism and Disorder Intelligence Unit (NDEDIU) deploys FITs and EGTs, tasked with gathering intelligence by taking detailed notes as well as photographs and video footage. According to the ACPO manual of guidance on keeping the peace, their role of FITs is to measure the “mood and intent” of crowds, identifying individuals who may become involved in “disorder or violence or may increase levels of tension” and establish dialogue in order to update commanders as to how to deploy resources most efficiently. EGTs secure photographic, video and audio evidence to “support the investigation and prosecution of offenders.”³³

Whilst on paper this may sound like a measured approach, the reality is quite different. Police have admitted in court that intelligence relating to an individual who was not suspected of having committed any crime was still of use to them³⁴ – revealing that the remit of EGTs is in fact far wider than the official documentation suggests.

Furthermore, FITs and EGTs often use hostile, antagonistic tactics in order to intimidate protestors. Some protestors have reported officers goading and shouting at them using their first names and revealing that they know where they live.³⁵ Others have been followed home and hounded continuously after the end of the protest.³⁶ One protestor describes in an interview how he was accosted in the street by strangers using his first name, singled out for stop and searches, and given a police escort during demonstrations, despite having never been convicted of any crime.³⁷

ACPO’s own guidance admits use of FITs may “raise tension within crowds.” Hostile implementation of intrusive surveillance is consistent with the disruption-directed model of policing. FIT surveillance has been described as “intimidatory, intrusive, invasive and provocative”³⁸ – and clearly aims to dissuade individuals from participating in protest altogether. As one protestor concludes, “they are trying to harass people enough so they no longer attend, and it works.”³⁹

Since 2010 there have been three legal challenges⁴⁰ in which it was found that in the particular circumstances, the use of forward intelligence teams and subsequent retention of information resulted in a breach of the right to respect for private life under article 8 ECHR – though the leading case, *Catt v ACPO*, is subject to a Supreme Court appeal due to be heard in December 2014. In *Wood v MPC* the claimant also argued a breach of articles 10 and 11, however due to the facts of the case this point was dismissed. This issue has therefore yet to be substantially considered by the courts, though it should be noted that in *Wood*, Lord Collins stated that he was “struck by the chilling effect on the exercise of lawful rights... a deployment [of FITs] would have”, recognising that there are “very serious human rights issues which arise when the state obtains and retains the images of persons who have committed no offence and are not suspected of having committed any offence.”⁴¹

33 ACPO <http://www.acpo.police.uk/documents/uniformed/2010/201010UNKTP01.pdf>

34 *Catt v ACPO*

35 Claire Provost <http://www.newstatesman.com/blogs/elections-2008/2008/05/fit-team-city-hall-police-bnp>

36 Emily Apple <https://www.opendemocracy.net/transformation/emily-apple/i-was-arrested-75-times-how-violent-policing-destroys-mental-health>

37 *Red Pepper* <http://www.redpepper.org.uk/fit-for-purpose/>

38 Theo Kindynis <http://ceasefiremagazine.co.uk/forward-intelligence-teams/>

39 n.21

40 *R (Wood) v Commissioner of Police of the Metropolis* [2009] EWCA Civ 414; *R (Catt) v Association of Chief Police Officers* [2013] EWCA Civ 192; *Mengesha v Commissioner of Police of the Metropolis* [2013] EWHC 1695 (Admin)

41 [100]

Water cannon

In early 2014 the MPS announced that it was considering the purchase of water cannon – asserting that they were necessary in light of concerns over ongoing protest actions in response to the government’s austerity agenda. Incredibly, the weapons were purchased despite having not at the time received authorisation from the Home Secretary, the apparent rationale being that they were being offered at a significant discount and would not remain available for long.⁴² At the time of writing the Home Secretary’s authorisation has still not been given.

Police claimed that water cannon are a safe measure and were necessary in ‘extreme’ public order situations, a claim which resonated well with the public and certain sections of the media, many of whom called for their use during the riots of summer 2011. However the notion that they would be used in any similar future ‘riot’ situations is demonstrably false – it is far more likely that they would be applied to political protests. During a public engagement meeting Met bosses cited three examples of public disorder in which water cannon would have been of use – all of which were lawful, political demonstrations rather than riots. Senior officers themselves have indicated that water cannon are not suitable for use in ‘riot’ situations, including ACPO President Sir Hugh Orde, who explained that they are only intended for static crowds.⁴³

The obvious safety concerns around water cannon have been completely disregarded. Water cannon have been observed to cause serious injury – the enormous pressure they exert is capable of hurling people across the street and protestors have suffered broken bones as a result. The Police’s own briefing document admitted they are a ‘less-lethal weapon’ and therefore capable of causing death.⁴⁴ Perhaps most famously, an elderly German protestor named Dietrich Wagner was blinded, narrowly escaping death, when he took the water blast directly to the face at a protest in Stuttgart in 2011. Alarming, it has subsequently been revealed that the water cannons purchased are the very same model (‘Wasserwerfer 9000’) involved in this incident as well as a fatal incident in 1985 in which a protestor was run over and killed by the vehicle.⁴⁵ German police were eventually prompted to stop using them as a result of safety concerns, but this seems to be irrelevant to the Metropolitan Police and the Mayor of London.

Both Deputy Prime Minister Nick Clegg and GLA Member Jenny Jones have stated that use of water cannon would be damaging to the principle of policing by consent.⁴⁶ Further militarisation of the police will heighten tensions and mistrust, particularly in the current climate of strained relations between police and public following the slew of recent high-profile scandals.

Internal documents indicate that “the mere presence of water cannon can have a deterrent effect” and water cannon can successfully be “deployed without being employed.”⁴⁷ It is not difficult to envision how water cannon’s mere presence at a demonstration will dissuade people from attending at all. Given that they are intended for use at political demonstrations rather than riots, this has serious implications for the right to assembly.

42 <http://www.theguardian.com/uk-news/2014/jun/10/boris-johnson-london-mayor-water-cannon-metropolitan-police>

43 <http://www.independent.co.uk/voices/commentators/sir-hugh-orde-water-cannon-make-for-good-headlines-ndash-and-bad-policing-2335676.html>

44 pg. 4 https://www.london.gov.uk/sites/default/files/ACPO%20Water%20Cannon%20Briefing%20Document%2C%20Jan%202014_0.pdf

45 <http://www.theguardian.com/uk-news/2014/jun/11/germany-phasing-out-boris-johnson-water-cannon-safety-fears-wasserwerfer-9000>

46 <http://www.standard.co.uk/news/politics/nick-clegg-water-cannon-go-against-long-tradition-of-british-policing-9531880.html>

47 Appendix A https://www.london.gov.uk/sites/default/files/ACPO%20Water%20Cannon%20Briefing%20Document%2C%20Jan%202014_0.pdf

Testimonies

Legal Aid cuts and the threat to the right to protest

Susan Matthews, mother of Alfie Meadows

The recent wave of cuts to legal aid in the UK will inevitably threaten the right to peaceful protest. Even though this is a right that is supposedly cherished, it will only survive if it is backed by access to expert legal support. In the current climate of austerity, there have been repeated attempts to criminalise peaceful protesters and thus to discourage others from voicing dissent.

I write as the mother of a student, Alfie Meadows, whose experience over the last three years epitomizes the threats protesters face. Alfie's principled attempt to protect access to higher education at the tuition fee protests of December 2010 was met both with police violence (a baton strike which caused a brain injury requiring emergency brain surgery) and then with a charge of violent disorder, with the threat of a prison sentence on conviction of up to five years. Alfie faced three trials (the first ended in a hung jury, the second was aborted due to illness). He was unanimously acquitted by a jury in March 2013 at his third trial. Alfie's acquittal (as well as his action against the police which is ongoing) were the result of an immense amount of work by a dedicated and expert legal team. His solicitor in the criminal case won the Legal Aid Lawyer of the Year award in 2013. Her work on his case went far beyond the hours paid for under the legal aid scheme.

The pay framework for legal aid introduced in 2014 and 2015 will mean that cases like Alfie's cannot be fairly represented. The cut of 17% to the already meagre fees paid to lawyers within the scheme will mean that it becomes impossible for firms specialising in protest law to remain economically viable. Forced restructuring of legal firms will reduce 1600 law firms to 525, placing small firms, such as those specialising in protest law and actions against the police, at risk of closure. These changes will make it impossible for firms to take on complex cases. It will mean that lawyers will no longer develop the specialist knowledge that allows fair representation in protest cases. Imran Khan, for instance, has made it clear that he would not now be able to take on a case of the complexity of the Stephen Lawrence murder. Similarly complex cases like my son's where a great deal is at stake for police (and indeed for the state) will be very hard to fight.

It takes courage to enter a Not Guilty plea in relation to the charge of Violent Disorder because protests (if inappropriately policed) quickly become chaotic, creating an environment which may be unfamiliar to a jury member. The three trials lasted in total over 12 weeks, and the final trial alone lasted over five weeks. Alfie's defence required the painstaking reconstruction of the whole protest to establish the extent of police violence and the consequences of inappropriate policing decisions including kettling. Whereas the prosecution case depended on repeatedly replaying film of a single episode lasting three minutes, the defence case demanded that the court understand the wider context of the day. To mount such a defence was dependent on hours of detailed study of video evidence.

I have no doubt that cuts to legal aid will threaten the right to protest by making protesters vulnerable to unfair criminalization and will reduce the legal checks to the use of excessive force by police.

Anti-fracking protests, Barton Moss, police violence

Lindsay Bessell, Legal Observer

I attended Barton Moss Protection Camp on a regular basis as a legal observer.

I have attended hundreds of protests all over the country as an activist and also as a legal observer. Barton Moss was my first experience of an environmental protest camp, and it was by far the most brutal policing I have ever witnessed.

There are many documented accounts of the police intimidation and violence at Barton Moss Camp, but these are 2 examples picked at random from my notebook and are my own personal accounts.

It was very unusual for there to be any lorries or deliveries to the IGAS site on Barton Moss Road, on weekends. One Saturday morning in February I got a call from a very upset female telling me that the police had arrived at camp due to a convoy of lorries going to the IGAS site. She told me that there had been a very violent arrest and they were waiting for an ambulance and asked for my assistance.

I arrived at the top of Barton Moss Road at 11.44am in my role as legal observer, I was immediately refused access despite me having my legal observer bib on and explaining my position. There were also approximately 10 locals stood at the top of the road, and officers 13641, 12908, 19545, 1853, 1171, told myself and the locals that access to the public footpath was being denied due to it now being a 'crime scene'. Yet at the same time these officers were allowing locals out of the alleged 'crime scene!'. A local female lady when trying to speak to officer 12908 was physically pushed back with force.

After approximately 1 hour myself and now around 25 locals after being stood in the cold pouring rain we were allowed access to the 'crime scene'.

As I got near the top of Barton Moss Road I saw a line of police preventing anyone from getting close to a female who looked unconscious lay on her side in a puddle soaking wet through and covered in a dirty wet duvet from the camp site. One of the protestors told me they had been told an ambulance had been called by the police nearly 2 hours prior but when she called the ambulance service to see what the hold up was, she was told that no ambulance had been called to attend Barton Moss Road! The lady then asked for an ambulance and this arrived at 12.59pm.

Here is an example of the morning lorry walk ins down Barton Moss Road.

Many locals would gather with those who lived on the camp in the mornings ready to slow walk the lorries down Barton Moss Road towards the IGAS site, the walk is just over half a mile.

I arrive at Barton Moss Road at 9.50am and immediately hear the Sergeant telling protestors 'at this pace you are committing aggravated trespass'. Some 20 minutes later more police are brought in, I count 3 lines of police for approximately 25 protestors. The police are all wearing heavy duty leather gloves, they are physically pushing protestors to try and force them to speed the walking pace. I note there are elderly and children with their parents amongst the protestors.

The Chief Inspector (85169) tells officers 'keep them moving'. Officers link arms to form a solid line to push against protestors who are walking at a reasonable pace. CI shouts again 'go faster'. Officer 6279 asks the CI 'should we make a couple of arrests'.

A few minutes later around 9.59am officer 15339 grabs hold of a male protestor and physically throws him using full force, I cannot see any reason to justify this officer's actions at this time. Officer 13217 says to female 'this is your final chance to move' female is then swiftly arrested, she says to officers 18610, 19550 who are arresting her 'I am a peaceful person on a public footpath'. She is then led away at 10.05am.

Police are now repeatedly shouting 'keep moving' protestors shout back 'we are moving'. From my observations the protestors have not stopped moving. EGT officer is now pushing police in front with his full body weight.

At 10.11am CI is heard speaking on his radio to gold command asking for more officers. At 10.12am around 20 more officers arrive and join the line of police, there are now approximately 60 police officers in the line. I hear officer 14380 say to protestors 'I enjoy pushing people'. Police are now being verbally and physically aggressive towards protestors, pushing those in front with the full force of their body weight.

At 10.20am shouts from the police to protestors 'you will be arrested if you don't move'. Again no one has stopped moving. Sergeant shouts 'don't push against officers WALK'. Sergeant then says to CI 'there's a woman in the line walking to slow'.

10.21am and Sergeant shouts out 'stop pushing against officers and keep moving or you will be getting arrested'. No one is pushing against officers from what I can see. Around 10.23am CI says in to his radio 'lost the line keep it moving'. I note there is also private security in the line of police. There are more shouts from officers of 'move or you will be arrested'. I hear the Sergeant say to CI 'we need to start pushing'. Sergeant again shouts out 'keep moving or you will be arrested'. I note protestors are moving they are singing 'one love' and the atmosphere is calm and friendly.

Sergeant shouts as protestors get near to IGAS gates 'get to the left of footpath'. At 10.30am a line of police start pushing and dragging people towards the left of the footpath and contain them. The containment lasts 5 minutes whilst the lorries enter the site.

The method of policing was I feel designed to intimidate, scare, bully, and create an climate of fear and also deter people from exercising their lawful right to protest enshrined within articles 10 and 11 of the Human Rights Act. The police response appears to suggest they wished for a physical response to their actions at Barton Moss Protection Camp, with a view to manipulating the arrest figures and criminalising peaceful protestors.

(The above was alluded to in a memorandum of understanding between Greater Manchester Police, IGAS and Salford City Council.)

Anti-BNP demonstration, Westminster, 1st June 2013 – s.12 Public Order Act

Soren Goard, Education Officer Goldsmiths SU 2012-13

I was arrested for (unknowingly) breaching a section 12 order during a demonstration against the BNP on the 1st of June 2013.

The BNP had been attempting to march on Lewisham Mosque, directly in the wake of the Lee Rigby murder, in an attempt to capitalise on a wave of Islamophobic reaction. At the time there was a spike in Islamophobic attacks, especially against women. At the time I was a student union officer at Goldsmiths, in Lewisham, and Muslim students expressed to me their fear of attack. We believed that it was important to prevent the BNP from marching – their freedom of speech was based on threatening other people's right to exist.

I had no idea on the demo that a section 12 had been put in place until the police began making mass arrests. They began by pushing the crowd quite violently, even though we had no-where to go, shouting that we had to leave, and then almost immediately pulling individuals from the crowd. They pulled me violently by the head, tore my clothes off my body, and pushed my face onto the ground.

I was loaded on to one of several buses, where I was kept for about an hour with the other arrestees. We were taken to Battersea police station, which was re-opened specifically in advance of the demonstration. We were kept in the yard for two hours, in the custody suite for another hour, then I was put in a cell until 1am, where I was interviewed with a Bindmans lawyer. I was released around 4am, by which time there was no public transport so I had to walk about 4 miles home. I was lucky enough to end up in a station relatively close – others were more than 20 miles away from where they lived.

I was given bail conditions not to enter the City of Westminster, and not to attend any demonstrations where the EDL, BNP or English Volunteer Force were present. Not only was this a direct attack on the right to protest, it was also incredibly wide-ranging. The EDL have been known to infiltrate student demos and trade union marches in order to attack them – on that basis any demonstration could potentially have 'EDL members present'.

I was bailed over twice over the next few months, until they charged me in November when I refused to accept a caution. After a plea hearing in February I was eventually given a court date in April – the day after my birthday! So I spent almost a year on bail.

On the day of the trial, which was scheduled to last for 5 days, it transpired that the prosecution had been unable to secure their key witness – the superintendent who had apparently issued the Section 12 order – because he had booked annual leave for the days the trial had been scheduled for. The District Judge threw the case out in less than two hours.

Of the 59 who were arrested at the demo, 5 of us were charged. All 5 were acquitted on the day of the trial. Because I didn't qualify for legal aid I had to pay for counsel. The CPS was supposed to refund my court costs because I was acquitted, but I am to date waiting for over £1000. This has put me in significant financial difficulty at times, especially after my employment ended.

Anti – BNP demonstration, 1st June 2013, Westminster, police violence

Amy Jowett, injured protester

On the 1st June 2013 I attended a peaceful protest organised by Unite Against Fascism intending to stop the BNP make racist and islamophobic mileage out of the tragic murder of Lee Rigby, by marching to the cenotaph in Whitehall. This demonstration had been supported overwhelmingly by my union conference the week before and as someone who teaches migrants in the community I felt it was my duty to attend the protest.

Despite mass arrests no protestor has been found guilty of any unlawful act during that demonstration. The police tactics of arrest and pushing back the anti-fascist protestors that day were extremely heavy handed and unwarranted.

As part of one of those push backs I was repeatedly kicked in the knee by an officer which left me with a severe tibial plateau fracture, needing multiple surgeries and facing a life time of future operations as ultimately my knee will have to be replaced.

Since the assault on me the police investigation has moved at snail pace and I am still unsure that the officer responsible for my injuries will face charges. The circumstances around my assault and the planned policing of that day remain unclear and the time scale waiting for uncertain future justice is extremely stressful and demoralising.

I have been left with psychological problems, continuous pain and an unsure future. There must be more transparency on how demonstrations are policed.

Student protests Dec 2010 – violent disorder charge

Christopher Hilliard acquitted protester

After I was charged, I did what I'm sure most defendants do – I went home and looked up the charge.

Violent Disorder

Where 3 or more persons who are present together use or threaten unlawful violence and the conduct of them (taken together) is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety, each of the persons using or threatening unlawful violence is guilty of violent disorder.

This will send a chill down anyone's spine – it's an offence that stands just below Riot. For us, it was shell shock. This wasn't a slap on the wrist, or something we could quickly sort out, and move on to the rest of our lives. This meant that we were facing 6 months in prison.

I was a student demonstrator – one of the many that had come from universities across the country the year before, and asked our MPs to pledge not to raise tuition fees. And even though I wasn't a student any more, I felt I needed to see through what I, and so many others, had been working towards. And this was my payment for taking part in the democratic process.

This charge had massive implications, but the first one, and the most simple, was that we were instantly told by our lawyers that we couldn't go on any more protests due to the risks involved, until the case was over. We were also warned off going to any events that might be too 'radical'. For two years of my life, I was effectively banned from protesting or getting involved in anything that a jury could take the wrong way.

But even after we were found not guilty, there is still a lingering stifling effect – the feeling that I am at risk whenever I'm at a protest, the fact that I will now have visa issues if I want to travel to America, and the fact that if I want to do anything that requires a CRB check, this could come up.

Even though this is all over, legally speaking, and I was found not guilty, it still hangs over me like a spectre.

Cops Off Campus demonstration – December 2013 assault PC charge

Anonymous protester – acquitted

I was arrested along with 33 others at a protest against police violence in December 2013 called Cops Off Campus. All of the arrests were made following two containments, and only four people were eventually charged, all with assault PC (after initial charges to prevent breach of the peace). At least 3 of the 4 people arrested were themselves the subject of police assaults; indeed, I was acquitted on one count because it was shown that I was coming to the aid of another protestor who was “receiving well aimed blows on the ground.” Ironically, the person I was coming to the aid of is one of the four charged with assault.

In witness statements the police said containments had been put in place to arrest people who had been involved in violent incidents; in evidence, the Inspector I was alleged to have assaulted claimed the containment was already in place at the time I was trying to drag him off a prone protestor – the incident for which the containment is said to have been put in place. In reality, the police surrounded a group of people attempting to leave the area, violently assaulted many of them, and called the result a containment – then arrested everyone inside and sought to justify that later using video evidence. And the conflict between the witness statements and the Inspector's evidence seems corroborate this ‘assault now, excuse later’ attitude toward public order policing.

Even if the police's assertion that the containment had been put in place to capture known offenders was true, it seems a particularly imprecise tool to do so – it casts far too wide a net. Also in the containment I was part of was a student journalist (Oscar Webb, editor of *London Student*), who can be seen showing his press card to officers as he's taken out of the containment and arrested, and legal observers, who were wearing orange bibs with Legal Observer emblazoned on them. I myself had my head smashed off the plate glass window-wall of Euston Sq tube station, was punched in the face, pushed to the floor, and stamped on; it was only once I eventually stood up again that I realised I was now part of a containment.

This was by no means the first time I'd been contained at a protest, and I know many people who no longer attend protests because ‘it'll just end up in a kettle’. At protests against the G8 in 2013, I saw empty buses being escorted into London by police outriders, clearly for the purposes of later processing mass-arrested protestors. Far from being a last resort, kettling now seems to be the logical conclusion to public order events as far as the police are concerned.