

Policing of the Kingsnorth Climate Camp:

Preventing Disorder or Preventing Protest?

March 2009

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Contents

Executive summary	3
1. Introduction	5
2. Police use of search powers	6
2.1 Use of Section 1 of PACE 1984	
2.2 Intrusion on liberty	
2.3 Seeking to obtain personal information	
2.4 Harrassment of legal observers	
3. Seizure of property	12
4. Police activity around the Climate Camp site	14
4.1 Aggressive police incursions onto site	
4.2 Sleep deprivation	
5. Policing of the march	15
6. Defaming protesters?	18
7. Conclusions	19
7.1 Civil disobedience and public order	
7.2 Violence?	
7.3 Preventing civil disobedience	
7.4 Legality	
8. Recommendations: the need for accountability	22
Appendix 1: Injuries sustained during Operation Oasis	
Appendix 2: Police medical team treatment record	
Appendix 3: Kent Police Freedom of Information response letter	
Appendix 4: Letter from Vernon Coaker to David Howarth MP dated 11 Dec 2008	
Appendix 5: Operation Oasis seized property list	

Executive Summary

Unlawful, repressive and disproportionate policing at Climate Camp

Police Officers used section 1 of the Police and Criminal Evidence Act 1984 as a blanket search power and, because of the number of searches then involved, subjected people to significant delay. This is now the subject of a judicial review application by two 11-year-old first time attendees and Dave Morris, one of the McLibel litigants.

Property was seized on a scale previously unheard of and in a manner designed to obstruct and undermine the very existence of the Camp and intimidate attendees.

Recent reports of a police database of protesters explain why there appeared to be a systematic attempt to obtain attendees' names and address even though they were quite within their legal rights to decline to disclose that information to the police. Methods included threatening attendees with foreign accents with arrest for immigration offences and threats of arrest for theft of their own bank cards and other items.

Legal observers observe and record police activity and, in particular, remind attendees (and sometimes officers) of their legal rights, including the right to decline to give their name and address. Our experience was that the police were not always willing to be transparent and accountable in this way. Some legal observers were forcibly prevented from being able to get sufficiently near to see or hear searches being conducted or to speak to the person being searched, even when their presence was being requested by the person being searched. A variety of reasons were given to justify this lack of transparency, including data protection, privacy, the need to keep the evidence area sterile, and the safety of legal observers. Legal observers were threatened with arrest for [civil] trespass, for obstruction, for conspiracy (under section 3 of the Criminal Law Act 1977), and for acting as solicitors when unqualified (under section 20 of the Solicitors Act 1974).

Sleep deprivation and psychological operations were used, involving frequent dawn raids, low flying helicopters at night, false alarm massing of police officers and vans, and early morning wake up calls with loud music playing 'Flight of the Valkyries', 'Hi de Hi', duck and dog noises, and 'I fought the law and the law won'.

No Climate Camp protester has ever been convicted of any violent offence. Yet the Climate Camp continues to experience disproportionate and repressive policing, and seems to be being targeted by the police as single-issue domestic extremism. On 9 Nov 2008, the Observer published an article in which police warned of a new wave of eco-terrorism; the article was subsequently withdrawn after the Observer conceded that the claims were unsubstantiated.

While views about the legitimacy of non-violent direct action or civil disobedience vary widely, few would regard it as a serious risk to public order. Some would argue that it plays a vital role in civil society. Nobel Peace Prize winner and former US Vice-President Al Gore recently stated:

*"I believe we have reached the stage where it is time for civil disobedience to prevent the construction of new coal plants that do not have carbon capture and sequestration."*¹

1 Reuters 25.9.08

A similar view was also recently reached by a jury at Maidstone Crown Court. Presented with information about the social, economic and environmental consequences of burning coal, they decided that direct action resulting in damage to Kingsnorth power station could be justified as preventing damage to property of a far greater value, which is inevitable without urgent action to tackle climate change.

In this context, how can a £5.9m policing operation involving 1,500 officers from 26 forces be justified - and what are the unintended consequences of allowing this kind of policing to go unchecked?

1. Introduction

The Climate Camp has four aims: movement building, education, providing an example of sustainable living and non-violent direct action.

In August 2008, the Climate Camp formed at Kingsnorth to protest about the prospect of a new generation of coal-fired power stations. Over a thousand people attended. The Camp hoped to draw attention to the contradiction between official declarations of concern about climate change and the decision to build a series of new power stations burning unabated coal (ie. without carbon capture and storage measures). However, a massive deployment of police largely prevented them from doing so.

This was the third year that a Climate Camp had been organised. Despite the fact that those attending the camp have consistently proved themselves to be peaceful protesters, the level of policing has each year been more repressive than the year before, in terms of its scale as well as its intrusiveness and interference with individuals. This year the policing bill came to £5.9m.

This report, based on two separate reports submitted by the authors to the Joint Committee on Human Rights, seeks to document the policing of Climate Camp 2008 and draw some conclusions from the experience. It draws extensively from written accounts provided by those who attended the Climate Camp.

What is Climate Camp?

Annual Climate Camps have been organised for the last three years, the first in 2006 at Drax coal-fired power station, the second in 2007 at Heathrow, and the third in 2008 at Kingsnorth power station in Kent. The organisation of these camps has taken a 'grassroots' form. 'Climate Camp' does not have a formal legal constitution; it has no paid staff; it has been set up by individuals rather than by existing institutions. Major decisions are made in monthly meetings through a democratic process of consensus decision-making. Working groups concerned with particular matters (eg. those planning the workshop programme, toilets, or publicity) take their own decisions, seeking ratification of them at the main meeting where these are of wider significance.

Similar protest camps have frequently been disrupted in the past by police pressure on landowners to refuse permission to use their land. As a result, the land used for the climate camps has had to be squatted to ensure the camps could go ahead. Notwithstanding this, the level of organisation and discipline has been widely commented on favorably in the press. A nightly curfew on amplified music was observed and hygiene precautions, electricity provision, fire safety and site-wide disabled access were all approved by local authority health and safety officers.

The camp was attended by a diverse array of individuals, including a number of Councillors, MPs and one MEP, as well as most of the well known public commentators on climate change, most of them more familiar with TV studios or the Today Programme – for instance, Mark Lynas, George Monbiot and George Marshall. Given that the event comprised five days of workshops and discussions, the average level of education of the campers was fairly high. In short, this was an extraordinary gathering of ordinary citizens, united by a shared concern that the Government's decision to build a new raft of power stations burning unabated coal is an inadequate response to the global threat posed by climate change.

2. Police use of search powers

Everyone attending the camp was subjected to extremely detailed, intrusive, time consuming and repetitive searches, unprecedented in scale or intensity on protests in the UK within recent decades. One person was searched 25 times. Although the police set up a base like a customs checkpoint, the quality of searching was much more like the regime for prison visits.

People travelling to or from the Climate Camp were frequently searched at Strood railway station, in Hoo village, at the A228 roundabout. All were searched at Deangate Golf Club's car park on which a large canopy was erected by Kent Police. The protesters' search receipts were checked again half-way up the lane to the Climate Camp, again at the entrance to the Climate Camp and sometimes once more after that. As a matter of routine, people being searched, people waiting to be searched, and legal observers present were filmed by police evidence gatherers. Searches of people leaving the Climate Camp also took place increasingly towards the end of the week.

Of particular concern were:

- the blanket use of section 1 of PACE 1984
- the intrusion on the liberty of people attending the Climate Camp as a result of the number of searches being undertaken and the resulting delays
- the variety of means used to obtain names and addresses
- the treatment of legal observers – who were threatened and ultimately prevented from observing police searches
- the inappropriate seizure of property.

2.1 Use of Section 1 of PACE 1984

Section 1 of the Police and Criminal Evidence Act 1984 allows the police to stop and search an individual if they have reasonable grounds to believe that they are carrying drugs, weapons, stolen items, or articles for use in the commission of specific offences (theft, burglary or criminal damage). This reasonable suspicion cannot be based on stereotyping: there must be a reason to suspect the *individual* concerned, and this reason must be given at the time of the search.

If police believe an incident involving serious violence may take place in the locality, a superintendent can authorize blanket searches under Section 60 of the Criminal Justice and Public Order Act 1994. This allows anyone in a given area to be stopped and searched for offensive weapons or dangerous instruments for a given period of time.

Section 1 of PACE was used to search everyone attending the Climate Camp. When individuals asked what reasonable grounds officers had to suspect them, the reason given was often simply that they were attending the camp. The authorisation of section 60 searches from Thursday 7 August 2008 at 9.30am resulted in no material change to the frequency or number of searches. Leaving aside the dubiousness of any expectation of serious violence arising from the Climate

Camp which might have justified the authorization of section 60, this indicates an inappropriate use of section 1 as a blanket search power. This is now the subject of a judicial review application.

2.2 Intrusion on liberty

Paragraph 1.2 of Code A of PACE 1984 states 'The intrusion on the liberty of the person stopped or searched must be brief and detention for the purposes of a search must be brief.'

The Home Office recognises that stop and searches typically take 25 minutes of police time. Since everyone entering the Climate Camp was searched, substantial queues frequently built up. There was a particular problem arising from the lack of female officers. **With the number of people involved, despite the number of officers deployed, delays of 60 minutes and longer were common. At the busiest times this was taking up to two hours.**

Food, 'tat' (assorted necessary equipment to establish the camp) and other deliveries were not permitted to approach the Climate Camp site. This meant that vehicles were unpacked and searched at the Golf Club search point and then repacked and parked on the other side of the A228 (parking any nearer was not permitted by the police). People from Climate Camp with wheelie bins, wheelbarrows and bikes then crossed the busy A228 just before the roundabout to collect the deliveries and come to the search point to be individually searched again. Where items had names on them, the person transporting the item was routinely accused of theft. This approach resulted in considerable delay and inconvenience, as well as risk to the safety of campers and that of car drivers on the A228.

2.3 Seeking to obtain names and addresses when the person searched has declined to give this information

Under all search powers being used by the police, those being searched have a legal right not to give their name and address. There is no power for the police to require these details, and many of those attending Climate Camp were understandably reluctant to share them, fearing they would be used to monitor their political activity. The recent investigation by Paul Lewis and Marc Vallee for *The Guardian*, which revealed that protesters' details are routinely gathered and retained on a police database for up to seven years, suggest these fears are well founded. However, a variety of approaches were used by officers to put pressure on campers to disclose their name and address. These included:

- Writing down of personal details from bank and other cards and other sources despite having no power to do so under the powers searching under
- Threatening people with arrest for the theft of their own bank cards or phone
- Threatening people with arrest for theft of items being unloaded and transported to the Climate Camp if those items had a name on them
- Threatening individuals with foreign accents with arrest on suspicion of immigration offences until they disclosed their name and address
- Threatening arrest under section 50 of the Police Reform Act 2002 (anti-social

behaviour) for failure to give their name and address, without adequate grounds to suspect the individual of having or being likely to commit anti-social behaviour.

Carol, a Legal Observer, reported that a man in his mid-70s had his walking stick seized, on the grounds that it could be used as an offensive weapon, by PC 2475 from the Welsh Police during a search at the Golf Club search point on 8th August 2008 at approximately 12.35pm. The man asked her to approach the officers to ask for it to be returned. She was told that he could not have it back unless he gave his personal details, which he refused to do.

Where protesters objected to the searches or resisted such pressure, they were often arrested. All of the charges resulting from these arrests have since been dropped.

Personal accounts to illustrate these approaches are given below.

Writing down of personal details from bank cards and other sources

Robert, was searched under section 60 by PC 1259 at the Golf Club search point on 7 August 2008 and declined to give his name and address. He was asked to show the officer the contents of his wallet, which he did, but without allowing them to see his personal details. An officer then said he needed to see all the cards as well in case there were razor blades attached to them or the edges sharpened. Upon Robert handing over the cards, an officer took them one at a time reading out the details. The original search form with details declined was torn up, and a new one written with his details.

Timmy, as a Legal Observer, saw officer PC 4037 from Welsh Police on Thursday 7 August 2008, at 20.42 search a lady aged 50-60 years old who refused her personal details. The officer took the details from her rail card and added them to the search form.

Kayte was searched on 4 August 2008 by PC 312 from Southall. No legal observers or other Campers were present save for her 17 year old companion. It was around 11pm. Five officers approached and separated them. During the search, the officer took a bank card from her purse and asked her to tell them her first name, which she did, and then asked her tell them her surname. This name was written on her search form despite her protests. The male officer present then went through every piece of paper in her bags and another male officer said, "Tell me if you get an address", which they did - from a medical prescription. This was added to her search form.

Threatening arrest for theft of bank cards, phones or camp equipment

James was assisting with unloading a delivery of 'tat' for the Climate Camp on 5 August 2008 and his part of the delivery included a table. The table had an army address on and a telephone number. He was accused of stealing the table and arrested and his name and address demanded. The officer refused to phone the number on the table until a name and address was given. This persisted for some time. He was searched and his details found on his person. When the number was called, the table was confirmed as army surplus and he was de-arrested.

Sarah was a Legal Observer at the main gate to the Climate Camp on Friday 8 August 2008. At 08.45 two women were taken to the side of the road by three officers. A fourth officer (KG124) moved to prevent Sarah following to observe. The women appeared to be in distress and one appeared to be looking for help. As the fourth officer had moved towards the search, Sarah moved forward to watch and noted the numbers of two other officers (KD 896 and KD 601). A membership card and cheque book were removed during the search of one of the women who was being questioned as to whether she had stolen the items. She was distressed and talked of 'being called a thief'. Christabel, one of the women searched, said that officer KD 601 asked for her name when looking at her cards and she reported that when she declined 'the officer said he wanted it as he thought I had stolen the wallet'. Officer KG124 told her that she had to give her details or she would be arrested. He added that he was doing her a favour by checking the card was hers so she did not get arrested. She confirmed under pressure her identity and ownership of the card. No search form was completed. When one of the women asked for a search form, there was no immediate response.

Threatening individuals with foreign accents with arrest for immigration offences

Emily was searched under section 60 at High Halstow on 9 August 2008 at 11.25. The female officer from West Yorkshire PC 2805 found a credit card in her pocket and asked her to confirm her name. She declined and the officer said it could be stolen and could she prove it was hers. The officer said it was misinformation that she could not take personal details from items found whilst searching. Another officer came over and asked where she was from (she had a mid-Atlantic accent). She declined to answer and the officer asked how he could know she had the right to be here and added something about there being some people who come to this country to make trouble. Emily had her naturalisation papers on her and offered to show them if they agreed not to take down her name. The officer took the form and walked away so she was unable to see if he was making a note of her details – he returned with her search form.

Enrico was searched on Wednesday 6th August around 12.00 at the Golf Club search point and declined to give his name. The officer informed him and his non-English speaking friend that they had to give their names to prove they had the right to be in the country as they could be illegal immigrants or over-stayed. Both stated they were Italian. They were told that they could be from anywhere and would be arrested if they could not prove they were not illegal and so reluctantly gave their details.

Dominique was searched on 6th August 2008 at 1.40pm by PC 2137 and declined to give her name and address. Another officer told her that he suspected she was an illegal immigrant and asked for ID. Dominique asked why he suspected her and was told it was because she had declined her name and address and he had noticed her accent. Dominique said she was from a EU country. The officer said not all native French speakers were from the EU and she could be from Guadeloupe. Dominique is white with blue eyes and straight, brown hair – stereotypically French in her looks. The officer said if she did not cooperate she would be arrested on suspicion of being an illegal immigrant, and with that she gave her name.

Use of section 50 of the Police Reform Act 2002 without adequate grounds

Under section 50 of the Police Reform Act 2002, the police have the power to arrest individuals for refusing to give their name and address if they have reasonable grounds to suspect they have caused, or are likely to, cause harassment, alarm or distress to one or more persons. These persons can include police officers, but a higher threshold must be met if this is to be relied on. This power was introduced as part of the enforcement measures for ASBOs, and was never intended for use on activists.

Frances witnessed the use of section 50 with one person. When she questioned its use, she was told it was because the person had refused his name and address and would be attending the Climate Camp. The officer said he had used section 50 twice before. Under the threat of arrest, the person being searched reluctantly gave their name and address. Frances had seen section 50 used on similar grounds on a previous day and when she approached a more senior officer the use by the officer had stopped.

On the day of action, individuals on a raft complied with directions to leave the water and were specifically told that they were not being arrested by the river police. On returning to the jetty, different officers threatened to arrest them if they did not give their names and addresses under section 50.

As the above case study demonstrates, refusal to give names and addresses was itself sometimes invoked as evidence of intent to commit anti-social behaviour in order to justify police insistence on providing a name and address. If this logic were widely applied, the right to refuse to give personal details during a search would be entirely undermined.

2. 4 Harassment of Legal Observers

Who are legal observers?

Legal observers are volunteers who offer information on their rights to those attending Climate Camp and observe and record information about searches and police activity. Their presence is intended to be a visible reminder to police officers that their actions are being observed and noted and of comfort to those attending the Climate Camp.

They have an important role of ensuring Legal Support is informed of the detail of arrests so that those arrested can be monitored through custody and arrangements can be made for their release, and of giving 'bust' cards to those about to be arrested so they are aware of how to access support from the Climate Camp Legal Support team and from the Climate Camp's solicitors.

Joseph was searched on 7 August 2008 by the Welsh police. He had been delivering food and despite having been searched when the van was searched, he was searched again when the food was being brought through. When he refused his name and address, the officer said that his accent (he is of mixed Scottish/English descent) and that his refusing to give his details gave them reasonable grounds to suspect him of being in the country illegally. He tried to shout to the legal observer for advice but the distance at which the legal observer was being kept made that unrealistic. Eventually, uncertain about the situation, he gave his name and address and released. He was filmed extensively throughout the search.

In relation to searches, Legal Observers are advised to stand near enough to searches to watch and hear what is being said without obstructing officers. They have been asked to offer support and reassurance and respond to any questions from those being searched and to offer information or to question officers directly (and approach more senior officers, if necessary) if they have any concerns about the direction of the search. They are advised of the common methods used by police to obtain names and addresses and to be especially alert on this point.

The police response

Increasingly during the Climate Camp Legal Observers were prevented from undertaking this important role. From Wednesday 6 August Legal Observers were kept back from searches so they could not properly see or hear the search or speak to either the officer or those being searched. The reasons given for excluding Legal Observers during the Climate Camp included: they would be arrested for trespass, arrested for obstruction, for their own safety, data protection, in the interests of privacy, to keep the evidence collection zone sterile. In addition, Legal Observers were threatened with arrest under section 3 of the Criminal Law Act 1977 (conspiracy) and section 20 of the Solicitors Act 1974 (acting as a solicitor when unqualified). **From Thursday 7 August 2008, Legal Observers were unable to observe searches.**

Megan, aged 16, on 5 August 2008 had a penknife seized and was told she had to give her name and address to get it back. A Legal Observer said this was not true and was pushed away, and the officer then said it would make it easier if she gave her name and address.

3. Seizure of property

One of the most significant changes in the policing of climate camp this year was the introduction of an extremely wide ranging seizures policy. Of significance here is both the scale and the nature of the seizures. The police clearly took hundreds and possibly thousands of items from individuals. To facilitate the return of property for people unable or unwilling to negotiate the individual return of items police have been preparing to bulk release some of the items and recommended a 7.5 tonne truck be brought for the collection.

A very large number of items were seized from people when searched and during a site-wide search under a warrant on Thursday 31 July 2008. Yet there were only a handful of arrests for possession of items seized and those related to drugs or the possession of knives (generally pen knives or kitchen equipment).

Moth, who arrived on Friday 1st August 2008, was searched at the Golf Club search point and had a small bag containing a **wig, two fabric flowers, a stripy top and red and white tights**, seized on the basis they could be used to cause a public nuisance. These items were to be worn during the procession to Kingsnorth. He requested that he be able to retain the top so he had an extra layer to wear at night but was refused. A **yellow highlighter pen** was also seized. The highlighter pen was to be used to highlight the workshops and meetings in the Climate Camp guide that he wished to attend during the extensive educational programme.

The items seized included tools, marquee rope, stakes and wooden mallet, rope, nails, bolts, tape, board games, a clown outfit and the bag it was packed in, a wetsuit, soap, chalk, crayons, marker pens, highlighter pens, paint, bamboo poles for flags, washing lines, tent pegs, puncture repair kits for bikes, walking sticks and much more. In addition, during the execution of the warrant the police attempted, but after peaceful resistance desisted, to seize the 1.5" diameter, blue, flexible plastic piping for the water supply, plastic waste piping for the water drainage systems, and a large wood pile for constructing the toilets, sink stands, water drainage systems and so forth.

Ruth had her bag in someone else's vehicle during the journey to the camp. Her **rain protection (an army surplus poncho)** was seized.

The list of items seized (retrieved through Freedom of Information requests – Appendix 5) needs to be read in the context of the materials needed to establish a functioning camp for over 1,000 people. For instance, sign-posting of facilities and communicating details of the extensive educational programme required flipchart/marker pens, crayons, paint and chalk; to erect the large marquees safely required hard hats, marquee rope, stakes, wooden mallets; and, toilet construction required bolts, nails, and tools.

Criminal intent?

Many items had obvious and immediate practical uses in setting up and running a camp, but at best only conjectural or hypothetical uses for the purposes of causing criminal damage. For instance:

- The explanation given at the time for confiscating bed rolls was that a protester could wrap it around their person and to help resist arrest.
- A person who had brought a large quantity of homemade soap for use at the wash stands on the site was told that it was being seized because protesters

- An elaborate replica model of a carbon capture and storage plant designed by a retired 70 year old engineer was confiscated on the grounds that holes in the model appeared to the officer to be potential 'finger locks.'

Joanna was a passenger in a van and on arrival at the Golf Club search point on 2 August 2008 at 11.15pm, **60 bamboo poles** were seized under section 1 on the basis that the items could be used for criminal damage. The flag material was present but not seized. Similar flags were already placed at the entrance to the Camp and the police at the time were standing alongside them.

Some of the items seized may have been used during attempts to protest and/or engage in peaceful civil disobedience. The wetsuit may have been used during any attempt to gain access to the site by water, shields and hard hats may have been used to protect people from baton blows by police and bike D-locks may have been used by protesters to chain themselves to immovable objects. While some of these actions might amount to criminal offences, many would not.

Shirley was stopped and searched on arrival near the Camp on Wednesday 6 August 2008 around 2pm and again near the Climate Camp. On her second search her **walking stick** was taken as it could be used as a weapon despite her protesting that she had had a knee replacement and needed the stick returned. She was told this was on the orders of the Chief Inspector of the Welsh police force.

There was a particular problem with bikes and bike locks. The Climate Camp was in a rural location and many attendees arrived with their bikes and bike locks. Bike locks were routinely seized even where they were not in the form of D-locks (which are sometimes used for 'locking on'), leaving people's bikes vulnerable to theft at the camp site and afterwards. At one point during the week the police permitted bikes to be locked to the railings of the Golf Club search point. Later, late at night and without any prior warning to the Camp even though the police had previously communicated with the Camp over other matters, the police cut the locks and seized the bikes. Subsequently the police offered compensation and to return the bikes after the camp had ended, saying that there had been a failure of communication and the Golf Club had required their removal.

Items taken from the site under warrant have largely been returned. However, it is proving difficult to obtain the return of the geodesic dome connectors, which the police allege have been used for lock-ons - although no protester has been able to think of any conceivable way this is possible. Many individuals who had their personal property seized after being searched are still waiting for it to be returned.

4. Police activity around the Climate Camp site

4.1 Aggressive police incursions onto site

Following the warrant to search the site on Thursday 31 July 2008, a manned mobile police station and police van were left at the main entrance to the Climate Camp and the gate to the field removed. The police presence increased at the other gates and the officers walked and drove around the field.

On Sunday 3 August 2008, around the time the procession and caravan approached Kingsnorth, the police left the site. Attempts were made to return at dawn on Monday 4 August and again during Monday afternoon. The attempts to return by force were mainly made at the rear entrance to the field. **Riot police were used and some form of spray utilised. A number of protesters were seriously injured. No police officers were assaulted. A number of arrests took place.**

This location continued as a source of tension for the remainder of the Climate Camp. Negotiations took place unsuccessfully over police access to the site.

4.2 Sleep deprivation

Of particular concern was the number of times attendees were woken up during the night, an activity which to those subjected to it seemed to be a deliberate attempt to deprive attendees of sleep.

Rachel and 11 others, state that about 2.20am on Wednesday 6 August 2008 a line of police cars and vans sped down the road next to where they were camping, playing **Flight of the Valkyries**, and that then the helicopter arrived and stayed overhead.

On Friday 8 August 2008, a family was sleeping in the North East part of the field and was woken at 2am by three low-flying helicopters; at 3am officers at the boundary fence were shining search lights into the tents keeping them awake. They report that on Sunday 10 August 2008 at 6am officers played '**Hi de Hi**', duck and dog noises and alarm bells to wake them up. There is a second statement from another family which supports this report.

Several accounts state that on Monday 11 August 2008 at around 6am, a police van arrived playing loud music and a recording of what sounded like an American police station's automated switchboard message. Officer NI 687 said it was time for the camp to pack up and leave and he would not turn the music off. He threatened one protester with arrest who had asked for the music to be turned down. The van later departed playing '**I fought the law and the law won**'.

5. Policing of the march

Although many of those attending Climate Camp hoped to engage in civil disobedience, others did not. As in other years, one of the elements of the 'day of action' was a procession to Kingsnorth which, it was made clear, would not attempt to engage in direct action. The march was notified to the police and had conditions imposed on it. It included families with small children and babies, local residents, older people, and disabled people in wheelchairs. It was made clear from the outset that keeping the march peaceful and non-confrontational was a vital objective.

However, once the procession reached the perimeter fence, it became subject to threats of violence. **Although an agreement in writing with police made no reference to any leaving time, police decided to impose a deadline on the day of the event which they announced from helicopters, warning them to 'disperse now, or dogs, horses and long-handled batons will be deployed.'** Police have since claimed that this was a 'mistake'.

The following extracts from an individual complaint to Kent Police made by Nigel, a 57-year-old consulting engineer and Parish Councillor who acted as a steward on the march, illustrate the concerns arising from this episode.

Helicopter threats

On arrival at the power station gates, there was a festive “picnic”, with speeches, banners, music and dancing.... The march was scheduled, according to the formal conditions laid down by the Chief Constable, to start to return to Climate Camp, by the same route, at 1.00pm, and this was indeed the intention.

At approximately 12.40 however, one of the police helicopters hovered low and announced “You must disperse immediately or police horses, dogs and long-handled batons will be used against you”.

This was a total shock to all, including the officers on the ground. It would make the return unstewardable and unpoliceable, and greatly endanger the safety especially of the vulnerable people involved....However, when I spoke to the policemen forming the line behind which we should have lined up to leave the location, they said “you heard, you’re not going to march back, now disperse”. There was clearly a complete breakdown of planning and communication among the police. A stream of frightened people started to return, as the helicopter announcement was repeated twice, still before the agreed 1pm limit.

To threaten a peaceful, compliant and vulnerable group of people, who were conforming exactly to the terms set out by the Chief Constable, with being forcibly dispersed by “police horses, dogs and long-handled batons” was totally unacceptable. One can only speculate on the reason. It has been suggested that it was a continuation of the intimidation which had been seen all week around the Climate Camp, or even that it was intended to provoke the sort of trouble which would justify the massive police presence and expenditure. It was certainly deliberate, repeated, and in contravention of the agreed conditions of the march.

Arrest for snapping plastic tape

Early in the march, while on Radcliffe Way, the march was supposed to keep within the inner lane, inside a rather flimsy line of red plastic tape and bollards. The sheer weight of numbers meant that the tape was constantly giving way and people spilled into the outer lane (which was also blocked to traffic, so there was no danger). The stewards and police

twice re-funnelled people back inside the tape, but eventually it became obvious that this was going to be impossible to maintain, and the officers at the front verbally agreed that as we were only about two hundred meters from the roundabout, we would just let it go and allow people to use both lanes.

A few minutes after that, there was a sudden commotion just behind me, and a man was being arrested. The crowd reacted, officers charged in, two horses waded into crowd, and a man was violently dragged away by police .. We were later told that the man had been arrested for breaking the thin plastic tape, i.e. "criminal damage".

[The man was subsequently de-arrested on the scene.]

Refusal of permission to leave the march

The end of the march was by then a wet and bedraggled trickle. A few of the returning protesters, perhaps one every half minute, wished to make a short diversion left into Hoo to the local shop.

Stationed on the roundabout was a squad of Metropolitan Police officers... For no apparent reason, shortly after I arrived, a few of them took up position across the pedestrian crossing on the Radcliffe Way side of the roundabout, and refused to let any further people go down into the village. The officer leading this action was very large, very angry and shouting. I explained calmly to him that the protesters were entitled to do this under the Chief Constable's written terms "Anyone may leave the march at any time, but will not be permitted to rejoin". If he wished to prevent them returning before the end of the march, although unreasonable, he would be entitled to do so, but he could not stop them leaving.

His response was that as some marchers had earlier taken a return route from a road junction way back on the march through the village, we had broken the terms of the march and so the police could too. He would not give any other justification or the legal power under which he was obstructing entry to the village.

There were many accounts concerning the policing of the march returning from Kingsnorth to the camp site. The examples below concern the tail-end of the march (at this point, mainly parents and children, some with pushchairs and some on bikes and at least one person in a wheelchair), some of whom had sought to leave to go into Hoo shortly after passing the Golf Club search point:

"...they then barged the police line past us and demanded I move the large bike and trailer on to the pavement without giving us time to move safely together, grabbed the bike and tried to pull it onto the pavement with me and 2 kids still on it, while I protested that my leg was trapped...the police continued to shout at our group when we were sat by the road together waiting for A to recover and the kids to stop crying....Legal support saw it at a distance and were stopped from coming to help."

John

"We were suddenly aware of police behind us as they began moving us on, shouting aggressively for us to hurry up. With no warning immediately they said this they began using arms and bodies to push forward. There was a collection of officers 4 mounted police and vans filling the road immediately behind us. We attempted to negotiate our position with our cold, wet and tired children. My wife and I became separate from [our friend] and the children on the bike [containing one of his children and his friend's child] and the police continued to intimidate us, my [11 month old] son in my arms was jostled and was crying. We were separated from my daughter and we managed to move through the police line to see an officer pulling the bike forcibly from the road. All the children were extremely distressed, and my wife was shouting at officers to stop and appreciate they were being unreasonable. I was grabbed by the throat and held forcibly so I could barely move by an officer wearing leather gloves. My son was in considerable distress, he was being jostled, my wife was attempting to reach him to comfort him, police continued to push and argue with us..." **Richard**

Kent Police's press announcement said of the march:

'We worked closely with Climate Camp representatives to agree a safe route and reasonable timescales for the march and subsequent assembly, taking into account that the marchers included children and people with mobility problems... The march kept to the timings, so we were able to keep disruption to local people to the minimum possible.'

6. Defaming protesters?

There are two mechanisms which encourage police to exaggerate the risks of violence posed by protesters. Firstly, since it would be difficult to defend spending £5.9m in order to secure E.ON's private property against incursions from trespassers, the police are under pressure to justify their budget, which in turn encourages them to exaggerate violence on the part of protesters.

Secondly, if the police can claim to reasonably believe that violence is likely it triggers a number of powers useful to their operation, particularly the power to prevent a breach of the peace and the power to authorise a s.60 stop and search order.

A particularly extreme example of this occurred on August 5, the day after the police had received generally negative media coverage for heavy-handed behaviour inside the camp. Carefully tapping into a very current public concern about knife crime, police ran a press release claiming a 'weapons cache' of (mostly) knives had been found in the woods near the camp. The Assistant Chief Commissioner of Police is cited as saying "I would suggest that a minority of people had hidden them with the intention of causing harm to police officers, and possibly to the horses or dogs that we are using."

Although it is impossible to prove, we simply do not believe that the ACC genuinely believed this accusation. Most of the knives publicly displayed by the police were kitchen knives, which had an obvious use in the camp. Many people resorted to leaving items likely to be seized outside the camp, simply to avoid the inconvenience of having them confiscated and the hassle of then reclaiming them.

No one requires the ACC to list the recent occasions on which knives have been used against horses or officers on environmental protests; no one expects an apology or retraction when violence fails to materialize, and no one expects the police to stop scaremongering at next year's protest. This kind of spin has simply come to be expected as part and parcel of a police operation on this scale.

7. Conclusions

7.1 Civil disobedience and public order

Civil disobedience most typically takes the form of protesters placing their bodies in the way of processes to which they object, for instance blockading roads or occupying machinery. Occasionally, it has also taken the form of criminal damage – for instance the dismantling of Hawk aircraft destined for East Timor.

Many civil disobedience campaigns have been vindicated by history: the Suffragettes, the Indian Independence Movement, the Civil Rights movement. They have often served as a safety valve in democracies by helping to catalyse necessary social change in fields blocked by vested interests.

Given the contradictions between the acknowledged global urgency of climate change, and the expansion in burning of unmitigated coal, we believe that such retrospective vindication might well also have been earned by any civil disobedience carried out at Kingsnorth, had it been possible to actually get past the police and do it. Contemporary endorsements from a former Vice-President and Nobel Peace Prize winner as well as from 12 representatives of the Kent public chosen for jury service only reinforce this belief.

Clearly, anyone who breaks the law can and should be prosecuted like everyone else. What we oppose is spending millions of pounds of taxpayers' money on pre-emptive action to prevent non-serious, non-violent law-breaking taking place – and, in the process, neutralising the political impact of such action.

7.2 Violence?

We believe that an impartial body reviewing the evidence about Climate Camp protests would have predicted that, left to itself, the risk of violence ensuing from it was considerably less than in a medium sized town at closing time on Saturday night, and could have recommended policing arrangements commensurate with that threat. On this we suggest the facts speak for themselves.

There were no prosecutions for violence at Climate Camp 2006. At Climate Camp 2007, a single prosecution for assault was dismissed by magistrates. This year two prosecutions for assault were commenced, but have been dropped. This is despite the fact that in 2006 and 2007 police were not slow to use baton blows against protesters attempting to get between police lines in order to gain access to the sites, and in 2007 and 2008 they did not flinch from using force to gain access to the camp, striking out at protesters standing in their way.

Questions in parliament and a Freedom of Information request to Kent Police recently confirmed that no police officers had been injured as a result of direct contact with the protesters at Kingsnorth. In contrast, the Climate Camp's medical teams treated dozens of protesters for injuries sustained in contact with police, including head injuries. Kent Police Assistant Chief Constable Allyn Thomas said at the time, "We consider it a measure of the success of the whole policing operation that so few injuries were sustained, both by officers and protesters, and that none were serious or major."

Despite all this, police claimed at the time that the camp posed sufficient risk of serious violence to justify the pre-emptive seizure of personal property which, as they have since conceded, almost universally had a legitimate purpose; to authorize blanket search powers which resulted in significant intrusions on individuals' liberty; and to deploy enormous numbers of riot police in an aggressive manner both on and around the day of action. We do not believe that these claims can possibly stand up to scrutiny.

7.3 Preventing civil disobedience

Whatever the stated purpose of the police operation at Climate Camp 2008 (and equally the two previous ones), the obvious practical goal was to prevent effective civil disobedience taking place. In large part the police succeeded in this.

This approach contrasts sharply with the much more lightly policed anti-road campaigns of the 1990s where protesters routinely gained access to building sites or land owned by the building contractors. At Newbury and other road protests, private security firms dealt with trying to prevent trespass and with removing protesters from their sites who would then be handed to police for arrest where there was evidence of criminal activity (eg. aggravated trespass). Police were on hand to prevent a breach of the peace, and would be appealed to by protesters as an umpire where they felt the security firms were behaving in a heavy handed fashion. Police appeared to see their goal as responding to crime rather than pre-emptively stopping it taking place.

By contrast, massive police deployments at the Climate Camps have largely prevented incursions onto the sites (with the one notable exception being the successful blockade of BAA offices at Heathrow last year). Certainly, this year police were impressively successful in protecting a perimeter fence several miles long. Despite the determined efforts of hundreds of people, reports suggest that only a handful of people were able to gain access.

By ensuring that protesters never got anywhere near E.ON's site, the police protected E.ON from adverse publicity and ensured that they stayed out of the story. Instead of a David and Goliath dispute between a company committed to boosting carbon emissions and ordinary people trying to stop them the matter appeared in the media as a dispute between the forces of order and disorder. Instead of media coverage of E.ON security guards pulling bodies out of Kingsnorth power station, we see protesters ineffectually running around fields in the shadow of police helicopters. The experience was disempowering and discouraging for individuals. They may decide not to try it again.

Site protection

Although simple trespass is not a crime in this country, no one attending Climate Camp 2008 could fail to note that, in common with previous years, the single most important strategic objective of police was to preserve the territorial integrity of E.ON's site by preventing trespass. They fortified the site with dogs, riot police, batons and CS gas. They used helicopters to track the movements of anyone approaching the site. Violence was freely threatened and deployed against anyone considering stepping over the fence.

Seizures

Although the sheer volume of objects seized (encompassing pens, tools, wood, banners and much more) had the effect and possibly the purpose of generally disrupting the setting up of camp and deterring attendance, the narrower police goal was clearly to seize any object capable of being used to facilitate trespass or carry out civil disobedience. Explanations given by police officers were consistent with this.

Intimidation and overpolicing

The total number of police deployed was reported as numbering 1,500. At any one time the police outnumbered protesters. Certainly, the area felt saturated in police.

Continuous intrusive filming took place on the way into the camp. Police were hardly ever wearing normal uniforms, and were generally in paramilitary style jumpsuits. When police were carrying out searches or 'investigations' they would usually try to isolate individuals from others, often taking them off to one side behind police lines. The individual here would typically be outnumbered by police in a ratio of 2-1 or 3-1.

Some people may be deterred from attending at all by this treatment. For many of those that do come it has a powerful effect. We believe that being repeatedly subjected to these forms of isolating and individualising control and enforced helplessness is experienced by many as more than merely harassment, serving to intimidate and frighten people and discourage them from taking direct action. The message individuals hear is: "We are watching you extremely carefully, we suspect everything about you, and the minute you step out of line we will arrest you."

This three-pronged police approach of seizing anything useful for carrying out civil disobedience, threatening violence against all trespassers, and instilling fear in any waverers proved an extremely effective combination of tactics and successfully protected EON against the embarrassment of direct action.

7.4 Legality

All three of these means by which police prevented demonstrators from carrying out civil disobedience were of questionable legality, yet practical, enforceable remedies for protesters are very limited, and – at the point the protest is happening – virtually non-existent. For instance, courts in this country (unlike the USA) are extremely reluctant to issue injunctions fettering the discretion of the police; the administrative court is an unsuitable forum for challenging policies which can only be inferred via a fact-heavy analysis of hundreds of discrete incidents; and the jurisdiction of the Independent Police Complaints Commission excludes strategic or policy matters.

We doubt that the use of force by the police to secure E.ON's site could be justified either under s. 3(1) of the Criminal Law Act 1967 - "A person may use such force as is reasonable in the circumstances in the prevention of crime", or under their powers to prevent a breach of the peace. This is because at the moment of trespass onto the site no crime is committed, and the police can have no means of knowing whether a person is intending simply to engage in trespass or may be intending to commit aggravated trespass. Given that the maximum sentence for aggravated trespass is only three months, it is likely that using CS gas or truncheons to avert it taking place would in any case be unreasonable. In relation to breach of the peace, we doubt that merely trying to gain access to E.ON's site in and of itself could amount to a breach of the peace.

In relation to the police seizures, although police were only legally empowered to seize items intended for use in causing criminal damage and/or as offensive weapons they took items that were obviously either virtually impossible to imagine being used in this sense or relied as evidence of intention simply on the fact that the person was attending Climate Camp.

In relation to the stop and search regime, a judicial review challenge is underway.

8. Recommendations

The need for accountability

A number of attempts have been made to hold Kent Police and the Government to account for the policing of the protest at Kingsnorth. However, we have often found confusion and misinformation. For instance, when Liberal Democrat MP David Howarth asked a minister to justify the expenditure of £5.9m on policing Kingsnorth, the Minister responded by claiming that “70 police officers were injured, although none seriously, at that protest”. He later apologised for misleading parliament after it emerged that only 12 reportable injuries were sustained during the operation, and not one of these resulted from direct contact with the protesters. (The relevant documents are attached to this report as Appendices 1, 2 and 4.)

Theoretical safeguards in legislation, the European Convention on Human Rights or police codes of practice are inadequate to protect rights to freedom of assembly or freedom of expression when protesters are faced with overwhelming pre-emptive police operations of this kind. The police will say (and we will agree) that mistakes are inevitable in an operation of this scale. The problem is precisely the scale of the operation.

Threat prioritisation, and thereby spending decisions in public order policing, should be based on objective and evidence-based risk assessments, analogous to flood planning or road safety improvements. A prerequisite for this is clarification of the objectives of public order policing since it is impossible to discuss the proportionality or rationality of measures undertaken to 'preserve public order' without it.

We believe that legislation should frame a definition of public order which prioritises the safety of individuals from harm and fear of harm to their person and their personal property. This would make explicit that protecting corporate and/or government property interests is not, without more, 'preventing disorder.'

We also favour the introduction of an independent scrutiny mechanism with the power to evaluate objectively the evidence base of any purported risk to public order to ensure that resourcing decisions are proportionate to the threat posed.

Just as NICE prevents GP surgeries wasting public money on ineffective drugs simply because a marketing campaign has swayed one of the partners, we would like to see a body empowered to scrutinise spending decisions on policing public order threats. Police should be required to justify their spending decisions by producing evidence-based risk assessments which would be available for review and scrutiny by an objective and independent body. This body would have a duty to ensure that policing was oriented towards safeguarding 'public order' which would be expressly defined as the safety of individuals from harm and fear of harm to their person and their personal property.

Without these reforms, public confidence in the impartiality of police will be damaged, and there is a risk that public order policing will be perceived as simply a political tool serving the interests of the government of the day.