EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

WORKSHOP

ON FREEDOM OF ASSEMBLY
AND ELECTORAL CAMPAIGN

Quba, Azerbaijan

29 June - 1 July 2010
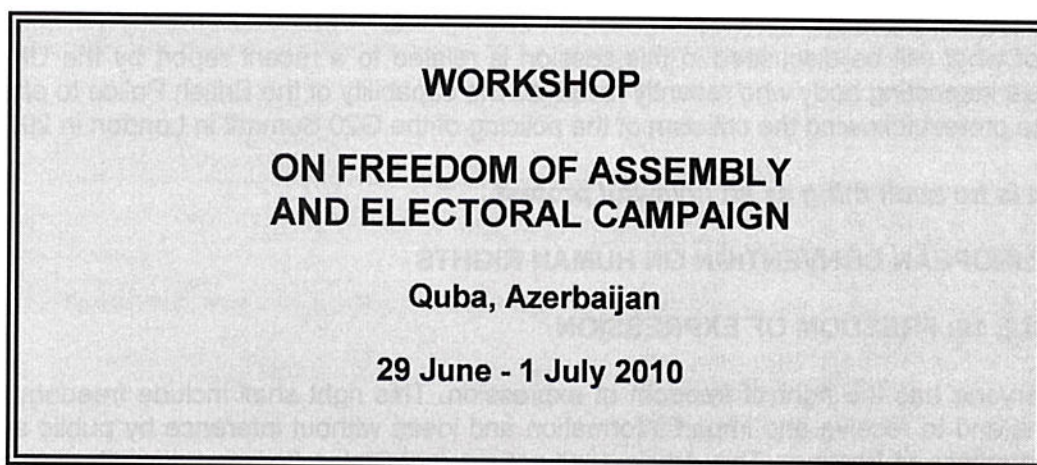
REPORT

ON PRACTICAL POLICING ISSUES CONCERNING THE RIGHT
TO FREEDOM OF ASSEMBLY
by

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PRACTICAL POLICING ISSUES CONCERNING THE RIGHT
TO FREEDOM OF ASSEMBLY

- Currently commander of a divisional 'Operations Support Unit' (riot squad) covering Blackburn and outlying towns in the North-West of England.
- Seven years experience of service and command in public order situations including the Burnley riots (2001) and the Gleneagles G8 Summit, Scotland (2005)
- Nationally qualified public order commander and command level assessor
- Nationally qualified public order tactical adviser

AIM OF THIS SESSION

You are the national experts in your field of expertise- the aim of this session is *not* to tell you how to do your jobs.
This session is simply intended to be an insight into how the UK police service deals with practical issues related to freedom of assembly and electoral campaign.

We too are still learning.
Much of what will be discussed in this session is related to a recent report by the UK Police Service's inspecting body who recently reviewed the capability of the British Police to effectively manage protest following the criticism of the policing of the G20 Summit in London in 2009.

"There is no such thing as an unlawful protest....."

THE EUROPEAN CONVENTION ON HUMAN RIGHTS

ARTICLE 10: FREEDOM OF EXPRESSION

(1) Everyone has the right of freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without inference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

(2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

ARTICLE 11: FREEDOM OF ASSEMBLY

(1) Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

(2) No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.
This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the state.

The presumption should always be in favour of allowing a protest/assembly to take place. The burden of proof lies with the imposing authority (police, government) to establish that any restrictions, conditions, formalities or penalties imposed are-

- Lawful,
- Necessary in a democratic society, and
- Proportionate to achieve the legitimate aim of that restriction, condition, formality or penalty.

N.B.- Just because an assembly/protest organiser has failed to adhere to any restrictions, conditions, formalities or penalties imposed upon them, it does not necessarily follow that the individual attendees/protestors themselves are acting unlawfully.

The prevention of public disorder should not be not be the sole responsibility of the police. Community cohesion is dependent on inclusive partnerships where all sections of society (and government) work together.
The police and partner government bodies have two overlapping roles-

- the building and keeping of the peace in the community
- the restoration of peace through local negotiation and appropriate interventions in order to minimise the effects of criminal activity and local tensions or conflict

It is essential that the management of conflict be regarded as a continuous process and not as a crisis intervention.

Upon being notified about an event it is important that a meeting takes place at the earliest opportunity in order to ensure that-

- as much information as possible is obtained from the organisers
- where possible, a good working relationship is established.

Accurately recording details of all planning meetings and policy decisions has greatly assisted UK police forces when accounting for their actions when under scrutiny for the way a protest has been policed.
Documenting a *'Statement of Intent'* or *'Memorandum of Understanding'* with event organisers can ensure that all parties are aware of their particular responsibilities, and more importantly will publicly reveal any subsequent failure/refusal to co-operate with police by the organisers.

'I.I.M.A.R.C.H.'   A Planning Model

Information-	what do we know? (under constant review)
Intention-	what do we intend to?
Method-	how do we intend to do it?
Administration-	logistics, resourcing etc.
Risk Assessment-	what are the risks, hazards and threats and how will these be controlled?
Communication-	how will those involved communicate? (radio protocols, media strategy, liaison with protest group)
Human Rights-	are the proposed actions compliant with the principles of the European Convention on Human Rights?

Mechanism of Control	Tactical Subgroup	Description
Social	Negotiated Management	A tactic which emphasises co-operation and communication between police and protestors.
Coercive	Continuum of force	A tactic whereby the level of force used is determined by the level of threat assessed.
Territorial Incapacitation	Ring of steel	A high, wire fence topped with barbed wire which encircles the perimeter of the target location which the police seek to protect.
	No protest zone	These are areas within or near to the protest site which are determined as being off-limits to protestors and are policed accordingly.
Protestor Incapacitation	Containment	Containment tactics are used to keep protestors in a confined area often for long periods of time. During this time protestors are not permitted to leave or the number that can leave at any one time is restricted.
	Pre-emptive arrest	Arresting apparent ringleaders or other troublesome protestors at an early point to prevent their taking further part in the protest.
	Border control	Restricting the free movement of individuals into a country.
Dispersal	Dispersal	A tactic designed to move protestors away from areas in order to break up protestor groups.
Enforcement	Zero tolerance	Police respond to even minor infractions of the law.
	Pre-emptive arrest	Arresting apparent ringleaders or other troublesome protestors at an early point to prevent their taking further part in the protest.

There has been considerable scientific research into trends in crowd behaviour. When planning/commanding any operation where there is a threat to public safety or potential for public disorder the following principles can apply to any crowd.....

- **Crowds contain many different attitudes and behaviours-** It is likely therefore that there will be different levels of participation in crowd activities.
- **A trigger incident may be a result of actions by crowd participants, the police, or as a result of altered perceptions arising from the interactions between them-** Information (whether accurate or inaccurate) about external events, received by the crowd or policing organisation may also heighten, diminish, or alter perceptions of circumstances.
- **Members of a crowd do not necessarily get carried away by 'crowd hysteria'-** Each person in a crowd has a different perception of events based upon their ability to see, hear and move. This may affect their behaviour.
- **When crowd members become highly emotional or aggressive, their visible behaviour can spread and become regarded as acceptable by those around them-** It can be an opportunity for a minority to influence and mobilise others around them.

- **Anonymity removes the fear of identification and sanction from crowd members and may lead to the breakdown of moral and legal constraints.** *This can also apply to police officers if they are not wearing identifying insignia.*
- **During crowd migration, non-directed crowds will follow the route of least effort-** Highly motivated crowds will attempt to follow the most direct route to achieve their objective.
- **If it is desired to apply direction to crowds, exits and escapes must be considered.**
- The higher the crowd density, the higher the likelihood of interaction within the crowd and the more difficult it becomes for crowd members to leave.
- The less informal control there is within a crowd, the greater the likelihood of the need for police control.

CROWD MANAGEMENT PRINCIPLES

1) Intelligence

Prior to any event the police should identify the groups that might be involved, their intentions, their tactics, their notions of acceptable behaviour, together with their views of other groups. Intelligence may also indicate the proportion of activists within a crowd, and how united that crowd might be in it's intention, *i.e.* the balance of those prone to violence/disruption compared to those who wish to be peaceful.

2) Facilitation

The police should seek to facilitate any lawful and legitimate aims of groups that are present- especially when conflict breaks out. The aims should be to permit the pursuit of lawful aims whilst dealing with groups acting illegally.

3) Communication

The police should communicate to the crowd how they are seeking to facilitate the crowd's legitimate aims and how the illegitimate actions of some in the crowd may serve to impede those aims. Communication should be through identified organisers and/or figures respected by crowd members. Liaison should be established at an early stage.

4) Identification

The police commander should encourage officers not to treat all crowd members in the same manner. When violence starts there is a tendency to treat everyone with hostility. However, especially in such situations, it is crucial to treat people with respect and win them to your (the police's) side, not the side of those who have started the disorder. It may be necessary to facilitate the desires of the many, such as those who wish to peacefully protest, so that they may assist the police with their overall intention to prevent disorder.

CASE STUDY-
LONDON G20 SUMMIT APRIL 2009

SCENARIO

- On 2nd April 2009 the G20 heads of state met in the 'ExCel' centre in London to discuss financial markets and the world economy.

- The summit became the focus of protests from a number of disparate groups over various long standing and topical issues. These ranged from disquiet over economic policy, anger at the banking system and bankers remuneration and bonuses, the continued war on terror and concerns over climate change. Although the majority of the protests and protestors were peaceful, instances of violence and criminal damage led to the police use of use of 'kettling' to contain protestors.

TIMELINE OF EVENTS

- **28 March 2009**- 35,000 people joined the peaceful 'March for Jobs, Justice and Climate' in central London, which was organized by the 'Put People First' organisation.

- **1st April 2009 (12.00hrs)**- Around five thousand people joined the 'G-20 Meltdown' protest outside the Bank of England. This was a radical anti-capitalist, socialist organisation conceived in Paris and formed in London in January 2009 prior to the G-20 summit. As well as the protest, they organised four nearby squats. Much of the protest, which was 'kettled', was peaceful although there were violent confrontations. The police used batons and dogs and at least one policeman was injured; some protesters broke into a branch of Royal Bank of Scotland and a bystander, Ian Tomlinson, died after being hit with a baton from behind by a police officer near the protest.

- **1 April 2009 (12:30hrs)**- About two to three thousand people joined the 'Climate Camp in the City' outside European Climate Exchange on Bishopsgate, which was peaceful except for when minor scuffles occurred after riot police 'kettled' the event at 7:30pm. The street was cleared at about 2am following day.

- **1 April 2009 (14.00hrs)**- Several hundred people joined a 'Stop the War Coalition' march from the American embassy in Grosvenor Square to Trafalgar Square which brought together protesters from the 'Stop the War Coalition', 'Palestine Solidarity Campaign', 'The British Muslim Initiative', and the 'Campaign for Nuclear Disarmament'.

- **1 April 2009 (16.00hrs)**- An 'alternative G20 Summit' with was scheduled to take place at the University of East London which was close to the main G-20 Summit venue. At the last minute the university announced that the whole university would close for the duration of the summit on safety grounds, and also that one of the university's professors who had been with them for over 20 years had been suspended for *"inciting criminal action, specifically violence against policemen and women and damage to banking institutions"* and that the alternative summit was cancelled. In the event, the summit did go ahead and was held on the lawns of the university and started an hour later than planned and an attendance of 200-300 people.

- **2 April 2009**- Around 200 people gathered for a vigil following news of Ian Tomlinson's death, and were 'kettled' by police despite claims that the vigil was peaceful. 200 anti-war protesters from the Stop the War Coalition protested at the ExCeL Centre.

- **2 April 2009**- 'Spiderman', the French climber Alain Robert, climbed the Lloyd's building and unfurled a banner saying '"100 months" to save the world' in reference to the urgency of tackling climate change.

RESULT

- 122 arrests in total
- 1 death (investigation still ongoing as to whether any fault lies with police)
- £8,000,000 cost to police the event (equivalent to £1,600 per protestor)
- 185 complaints against police
- No firearms, rubbers bullets, CS or water cannons were employed by police
- Metropolitan police had to issue formal apology to free press for excluding them from certain parts of the operation
- 2 allegations of assault investigated by Independent Police Complaints Commission (neither upheld)
- Police tactics were both condemned and defended in national press, and whilst treatment of protestors was subject of much controversy, the security operation for the event was deemed a success in policing terms
- Events of the G20 instigated a national review of police tactics by Her Majesty's Inspectorate of Constabulary, leading to the 2010 publication of the report *'**Adapting to Protest'**

'ADAPTING TO PROTEST'- KEY FINDINGS

- An absence of clear standards on police use of force for individual officers working in situations of public disorder.
- A disconnection between self defence training and riot training for police officers.
- Variation between police forces in their understanding of the law relating to police use of force.
- Inconsistency in tactics between police forces.
- Inconsistencies in equipment between police forces.
- Inadequate public order command capability.
- Out of date riot training and guidance.
- Inadequate training in the law- human rights and public order legislation.
- Inappropriate use of public order legislation
- Uncertainty about police accountability

ADAPTING TO PROTEST'- RECOMMENDATIONS

- Adoption of a set of fundamental principles on police use of force which run through all aspects of police business.
- Codification of public order policing methods to ensure consistency of tactics, training & equipment.
- More directed, focussed and relevant public order training.
- A no surprises communication philosophy with protestors, the wider public and the media. Protestors and the public should be made aware of likely police action in order to make informed choices and decisions.