

PART 7:

LEGAL BRIEFINGS AND GUIDE

TO COURT AND PRISON

7.1 Introduction

It is difficult for the authorities to admit that the deployment of Trident is unlawful. Although we believe that we are acting lawfully by trying to prevent the crime of threatening a nuclear holocaust we must be prepared for arrest, court trials, being found guilty and possibly a long time in prison. To be responsible for ourselves and others we must plan well for these possibilities. At the beginning of the campaign we felt that we had to be prepared for the possibility that everyone who had signed the Pledge to Prevent Nuclear Crime might be arrested and charged with conspiracy as soon as their names became public. In the thirty months of the campaign no such move has been made but it still remains a remote possibility.

It is advisable to always carry a copy of your Pledge to Prevent Nuclear Crime with you so you can produce it to explain your actions. You may wish to prepare a specific police statement that explains the more personal reasons for your actions but it is advisable to always include the wording of your Pledge within it. However, you may wish to engage only on a moral or humanitarian level and not to avail yourself of any legal arguments. You may feel that to rely upon the law in any way when this is for you simply a matter of love and respect for all living beings is quite unacceptable. This is fine. You do not have to use the law at all. You should do whatever feels right to you.

We now have a Legal Support Team based in Scotland and another one to cover England and Wales. They monitor all arrests, court appearances, sentences, appeals and prison stays. They can provide information about Court procedures and help with preparation of your defence.

Please keep this Team informed of anything that happens to you within the legal system. For Scotland contact Jane Tallents on 01436-679194 or e-mail: tp2000@gn.apc.org. For England and Wales contact Andrew Gray on 0191 209 3140 or e-mail andrew@andrewgray.uklinux.net

7.2 Getting arrested and processed

You'll be in very good company if you do get arrested, joining in a long tradition of people who have been arrested for their beliefs. The experience of getting arrested is different for everybody. It can be emotionally moving, good fun, spiritually inspiring, extremely scary, empowering or isolating.

Your experience is likely to be more positive if you know what to expect and if you prepare your action thoroughly.

7.2.1 Procedure in Scotland

(Note: Scotland has a different legal system from England and Wales.)

If you do anything which the police consider to be against the law you may be arrested. There are two kinds of police around military establishments - Civilian Police and Ministry of Defence (MoD) Police.

Sometimes the police will warn you first before you are arrested and if you are in a group this may be done to the group as a whole. They will caution you (the bit about anything you say being taken down and used in evidence against you etc). It now includes "it may harm your defence if you do not mention now something which you later rely on in court". That means that it is usually worth mentioning any facts that could be crucial to your defence, but it does NOT take away your right to silence. You will then be taken by the police, possibly in a car or van, to a processing point.

Of course it may be the Marines or some other people (especially if you are found inside a Trident submarine or a high security area within the base) who first detain you but eventually you will be handed over to the police to be dealt with.

At some point you will be processed which is not as painful as it sounds! Things can happen in various orders, at a variety of places, sometimes some of



them don't happen at all, sometimes it all happens very quickly and you are released, sometimes it takes ages. From the processing station you will be taken to a police station. Be prepared to take it all in your stride and know your rights.

- You will be searched and your possessions taken away. Make sure that you do not have on you anything you do not wish the police to see or any offensive weapons (matches, knife). In other words only take with you essential things that you can reasonably justify having. You will be asked to hand over any sharp objects before being searched. If you fail to do this it could result in an extra charge.
- The police will ask your name, address and date of birth, which legally you have to give. They will also ask you lots of other things but you don't have to give them any further information. It is probably best to say nothing else except to tell them if you are vegan or vegetarian or need medication. You may decide with your group that you want to talk about the issues and reasons for your action but it is usually better not to talk about the action itself as this may be used against you later on. You will have plenty of opportunities to talk about all of this during the court case. The police can ask as many questions as they want and the information given can only be excluded as evidence if obtained by intimidation, threats, bullying etc.
- If you are ill or injured you have the right to see a doctor. If you need one then insist on seeing one at the earliest opportunity.
- The police can photograph and fingerprint you if they wish but the records will be destroyed if you are not charged, or if you are charged but eventually acquitted.
- You have a right to be able to take notes of what is happening to you - they can be very useful.
- The police can detain you for up to six hours if the offence you are supposed to have committed can be punished with a prison sentence. You must be told of the suspicion and general nature of the offence you are supposed to have committed. You can ask for a solicitor and another person (usually a friend or relative) to be told of your detention. Ask them to contact the Legal Support number (set up for each of the open actions at Faslane, Coulport and Aldermaston) or your own Affinity Group support number who should keep the Legal Support Team informed. The phone numbers for the Legal Support line will be given just before each open action. They have the names of several lawyers who are willing to come to our aid in an emergency. While strictly speaking the police can prevent you from seeing or speaking to a solicitor during this six-hour period, in practice if a solicitor attends the police station they will probably be allowed to see you. You are entitled to a private consultation with your solicitor before any court appearance.
- You may be interviewed about the offence you are supposed to have committed, usually recorded on audiotape, and will be cautioned at the start of any interview (although this process is unlikely for minor charges). You may like to have a statement prepared to read out at the start of this interview, and then not to answer any questions the police put to you.
- Once you have been charged you can be held for court or released as soon as the police can verify your name and address. They check this by sending the local police to the address you have given and asking if you live there or by checking on the electoral roll. Otherwise (e.g. if you have just moved and live by yourself), think of ways to convince them that you really live there, and have the phone number of someone else who can verify to them that you live there. If you are not British then your passport will suffice as proof of your identity. Checking your address can all take a very long time especially if there are a lot of people in custody.
- You may be held and taken to court the next morning. If you are arrested on a Friday you can be held until the Monday.
- The possible charges are dealt with in the next section. Once you are charged with an offence, you should not be questioned further. A caution is often given at this point, making clear that anything you do say in response to being charged can be used in evidence. If you want to make another statement at this point, you can do so. The advantage of making a statement at this point is that you can't be questioned about it.
- If you are released from a police station you may receive a citation in the post (possibly some months later). The citation informs you of the charge against you, gives a court date for the hearing of your plea (guilty or not-guilty) but gives you an opportunity of pleading by post so that you do not have to travel to court just to put your plea in. If you wish to be represented at court this is the time to arrange legal representation. When you do receive a citation please contact the Trident Ploughshares Legal Support so that they can keep accurate records and help with more updated advice and court support.
- You should be given all your property back. There should be someone from your affinity group (or TP legal support at big actions) waiting to meet you outside and who will arrange a lift. You will then be able to inform

the Trident Ploughshares Legal Support that you are out.

Everything in a police station moves very slowly, so don't worry if nothing seems to be happening. There is lots to do to pass the time; sing, dance, shout support to other cells, meditate or even just sleep. You can ask to take a book in with you, ask for pencil and paper, food and water or a blanket, some of which you might get!

7.2.2 Procedure in England and Wales

In an English/Welsh police station, the rules are a bit different. You do not have to give your date of birth, although you will be asked for it and your release may be delayed if you do not give it (because the police will not be able to search for you on the police computer so easily). You are less likely to be formally 'charged' when first arrested in England, and you cannot be fingerprinted until you have been charged. You can be photographed after charging, but the police cannot use force, so you can refuse to cooperate if you do not want to be photographed. You are unlikely to be more than 'pat'-searched (unless the charge is serious), and it will be by an officer of the same sex.

The most important thing to know is that all the procedures are governed by something called 'PACE' (Police and Criminal Evidence Act). You can ask to see a copy of the Codes of Practice while in the police station, and this is recommended if you are at all unsure or if the police appear to be particularly nasty to you. The Codes also govern interview procedures.

You are entitled to see or talk to a solicitor (free of charge), and to have someone informed. You can have someone informed each time they move you to a new police station. If you use the 'duty' solicitor, be careful not to be talked into pleading 'guilty' or accepting a 'caution' (see below) if you do not want to. You should also always say that you give consent for information about you to be passed on to anyone phoning up: under PACE, they cannot withhold information if you give consent.

Before you are released, you may be formally charged (they should not normally hold you any longer after charging you), in which case they may fix a court date on the spot. This will be in the near future, and will just be a 'plea' hearing (you can normally get out of going by writing to the court, if you are pleading 'not guilty'). If you are charged, the police can impose bail conditions, which you have to sign (if

you want to be released). These may prevent you from returning to a protest camp or going on MOD land etc: if you break your bail conditions, the penalties and consequences are often more serious than the original 'offence' that you were charged with.

There are four other options which the police often use instead of charging.

(a) They may report you with a view to prosecution, which means that they send a file to the Crown Prosecution Service, who may send you a 'summons' (like a 'citation' in Scotland) within the next 6 months.

(b) They may offer a formal 'caution' (if under 18, this will be a 'reprimand' or 'warning'). A caution is not a conviction and is an easy way of dealing with the 'offence', but it will go on your police record and may be used in court on future occasions; it also involves admitting 'guilt'.

(c) They may release you on bail pending further investigations, which means that you have to come back to the police station at a later

date, when they may charge you.

(d) They may do nothing and just let you go (possibly with an informal 'oral warning' first: this has no legal significance).

"I am here to invite and submit cheerfully to the highest penalty that can be inflicted upon me for what in law is a deliberate crime and what appears to me to be the highest duty of a citizen. The only course open to you, the Judge, is either to resign your post and thus disassociate yourself from evil, if you feel that the law you are called upon to administer is an evil and that in reality I am innocent; or to inflict on me the severest penalty, if you believe that the system and the law you are assisting to administer are good for the people of this country and that my activity is therefore injurious to the public weal."

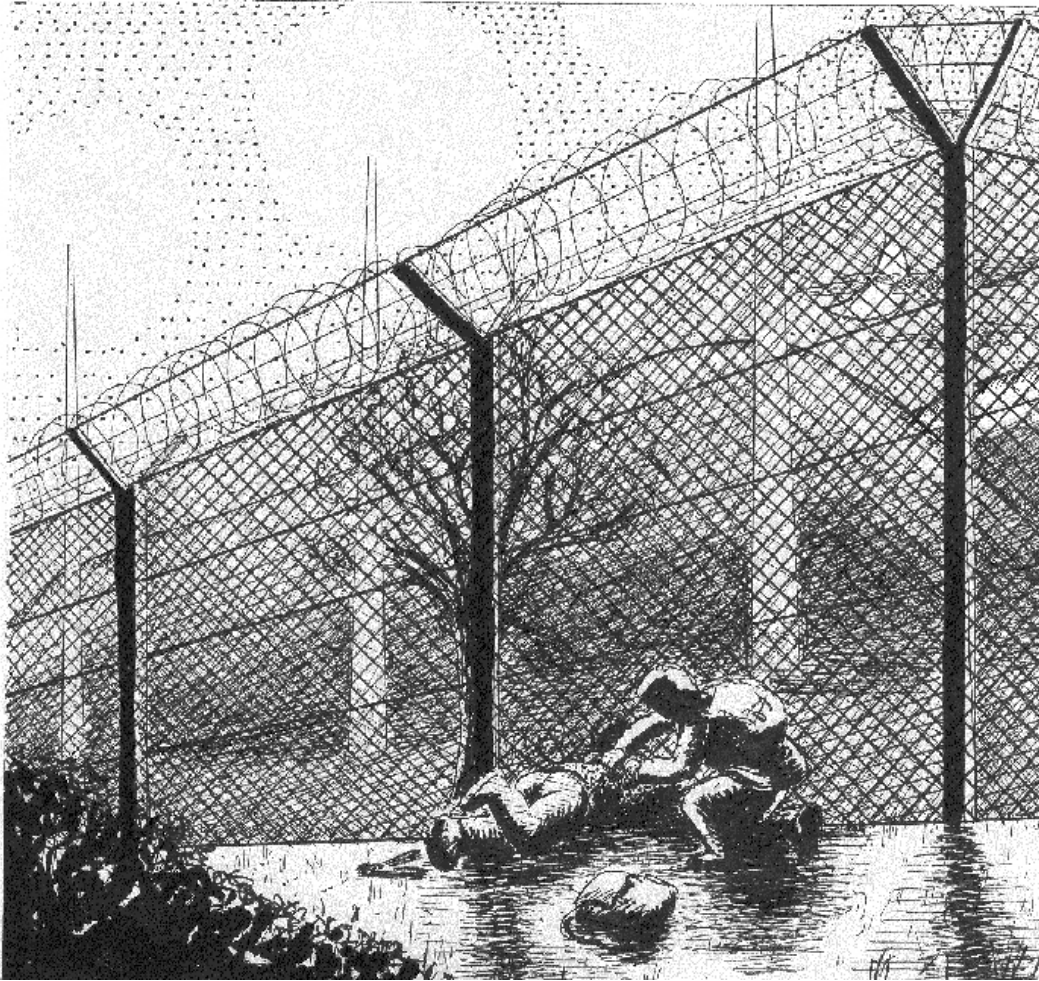
Mahatma Gandhi

7.2.3 Possible Charges in Scotland

Breach of the Peace is the most common charge. If you are blockading, the charge will read something like 'That on February 12th 2001 you did at the North Gate HMNB Faslane conduct yourself in a disorderly manner, lie on the roadway, obstruct the free flow of traffic, refuse to desist when requested to do so and did commit a breach of the peace'. In Scottish law, unlike the law in England and Wales, Breach of the Peace is a 'catch all' charge. It is defined very widely as doing things which cause, or could reasonably cause, alarm or disturbance.

It is a common law offence, which means you can be tried in any of the three levels of Scottish courts. The maximum penalty available to the court will depend on the limits to the sentencing power of the court which tries you. The court will take a view of the seriousness of your actions, and should take into account your personal circumstances, in order to determine precisely what level of sentence to give you.

Malicious Mischief is most commonly defined as intentional or reckless damage of another's property. It is a common law offence, so again can be tried at any level of the criminal justice system, and the penalty you get will depend on the seriousness of the



damage you cause, and any personal mitigating factors.

Vandalism section 52 Criminal Law (Consolidation)(Scotland) Act 1995 is defined in a similar way to malicious mischief (wilfully or recklessly destroying or damaging any property belonging to another), but is a less serious charge. The maximum fine is £1,000, and/or a maximum prison sentence of 60 days in the district court, and £5,000 and/or 3 months in prison in the sheriff's court. For a second or subsequent offence the sheriff's court can give you 6 months in prison.

Conspiracy is complete when an agreement is reached between a group of people to do any criminal activity. There are different types of conspiracy, so you do not need to have all been in touch with each other: person A could agree with person B to do an act, and then B could agree with C, and they could all be charged with conspiracy. It is very difficult to withdraw from a conspiracy, and to some extent it is even debatable whether it is possible to do so in legal terms. Once the court thinks you have agreed, you have to have done quite a lot to be able to convince the court of your disengagement. Signing up for the Trident action could well be seen as fairly conclusive proof of your participation in a conspiracy. However, the more people sign, the more unlikely it is that all of us will

be charged, but it is still possible. More likely is that organisers would be picked off.

Incitement is what it says it is: attempted conspiracy, or inviting someone else to participate in criminal acts. Again, its more likely to be used against the Core Group, but you may like to be careful about what you write to other people, and what you say on the phone, because this may produce concrete evidence that can be used against you.

Faslane, Coulport and Rhu Narrows Byelaws cover the area inside the bases as well as land and water outside the base belonging to the MoD. The main charges under the byelaws are 'entering by land except by way of an authorised entrance', i.e. through a hole in the fence! And 'entering the Protected area without authority'. There have been, in the past, legal challenges to the whole validity of the byelaws. Contact the TP Legal Support if you want to know more.

If activists do anything at all that gets them arrested while they are on bail they will most likely be charged with Breach of Bail. If you do this too often you run the risk of being remanded until your trial.

7.2.4 Possible Charges in England and Wales

This is not an exhaustive list of charges, but covers the most likely ones or those used most often so far.

Breach of the Peace

This is completely different from Breach of the Peace in Scotland. There are lots of rights and powers available to police to arrest to prevent a breach of the peace, and magistrates can make a 'binding over' order against you (after a court hearing, just like a trial), but this is not a criminal conviction, and should not apply unless there is violence or a threat of violence.

Obstruction of the Highway

This is a very common charge for any kind of blockade. The highway includes the grass verge and pavements, but not private roads. It is a very minor charge, but also hard to defend against (see separate TP briefings if you are charged with this). Some entrances to AWE are not 'highways' by law.

Obstructing the Police

This is often used if the police don't like you or want you out of the way, and may be added to other charges. Most likely to be used if you 'intervene' when someone else is being arrested or the police are taking other actions against a demo.

Marches, Demonstrations and Public Order Charges

There are various regulations about marches and demonstrations, which are most likely to concern you during mass actions or if you are identified as an 'organiser'. Police can ban marches (in rare circumstances), and also 'trespassory assemblies' (after getting a court order in advance). They cannot ban normal demonstrations, but can impose conditions (which it is then an offence to break).

They can also order you off private land or arrest you for 'aggravated trespass' if you are being disruptive, obstructive or intimidating.

You may be charged under the Public Order Act with a range of offences, but probably 'section 5' (disorderly conduct), which is the most minor public order charge, and similar to 'breach of the peace' in Scotland. Section 4 is a bit more serious, and so on to section 1 (riot).

If you get into the base you could be arrested for 'aggravated trespass'. This applies when you "trespass on land in the open air with the intent to disrupt or obstruct or intimidate someone going about their lawful business on that land (or adjoining land) in the open air". S68 should not apply if you are in/on a building. However gleeful you may be at a charge which will involve them attempting to prove that what they are doing is a lawful activity, they will probably give you a S69 warning. The senior police officer present - who has to reasonably believe that a S68 offence has/is/will be committed - can warn a person to leave - it is an offence not to do so as soon as possible - or if you return within three months. The MDP have never used S70 (Trespassory Assembly) - though peaceful protests of more than 20 people have been ruled illegal in the High Court.

Byelaws

As in Scotland, MOD property and some other places are protected by special byelaws. These vary from place to place, and notices should be stuck on a board somewhere. Generally, byelaws give the police more powers to move you off land or arrest you for 'trespass' etc. For instance, AWE Aldermaston/Burghfield are Ministry of Defence sites, covered by by-laws. Under these by-laws, it is an offence, for example, to enter the site (trespass), to tie things to fences or fly kites over the base. Currently if you get into a base without committing criminal damage (see below), the MDP ask you to leave. If you don't want to, they put you in a van and drive you out. However, they may detain you for a while before releasing you. Prosecutions under the by-laws are very rare. Under the by-laws, the MOD own parts of the verges immediately outside Aldermaston, but Aldermaston Women's Peace Camp has camped in this area for years without many problems. This does not mean they will not use them.

Criminal Damage

This is similar to 'malicious mischief' in Scotland, and can include 'temporary' damage like graffiti or even chalk. The main difference is that there is a special (but limited) defence available of causing damage to 'protect' other property, and that the compensation awarded against you if you are found guilty is usually higher. If they do not have evidence of your causing actual damage (or if they arrest you before you do the damage), you may be charged with 'conspiracy' to cause criminal damage, which is (perversely) a more serious charge.

If you get into the base by climbing over the fence, the MDP may arrest you on suspicion of criminal damage, in case you damaged the fence or sensor wires when you climbed over. If no damage has been caused, they typically release you without charge.

Harassment, Incitement, Conspiracy

There is a range of charges that have not been used against TPerS recently, but may be in the future (especially if other charges don't stop us!). They are generally more serious, and usually only used against people identified as 'organisers', so be very careful if you are asked questions about organising demonstrations or actions!

7.2.5 Consequences - what could happen to you eventually

Will I be sent to prison?

Theoretically, everyone who signs the 'Pledge to Prevent Nuclear Crime' could be arrested, charged with conspiracy, and ultimately sent to prison. But this (especially the last stage) is looking increasingly unlikely, and is probably now only the faintest possibility, except perhaps for members of the Core Group.

If you do significant damage, and are subsequently found 'guilty' in the courts, you could be sent to

prison. This is something which you should have prepared for, with your affinity group. A prison sentence is only likely for very serious offences (major theft or criminal damage etc).

If you have a big criminal record already, or have previously broken your bail conditions (e.g. not turned up in court when summonsed), or if you are charged with a serious offence, you could be kept on 'remand' pending your trial, or for a week or two at least, instead of being released 'on bail'.

Otherwise, the only possibility of prison comes if you are fined (even for a minor 'offence') and refuse to pay your fine. Your fine may be transferred to your local court. You should only be sent to prison as a 'last resort', and you may be given several warnings and chances to pay (including another court appearance) first. In England you will not be sent to prison unless you are 'wilfully' not paying (i.e. able to pay but refusing). Recently in Scotland there have been cases where the Magistrate says you have a certain time to pay or 'the alternative' of X days will be imposed. When the time is up an 'extract warrant' will be issued and you will be arrested and taken straight to jail. The police have just waited until people come back to court for another case and arrested them at the end. You may receive a short prison sentence probably one or two weeks unless the amount is high, and you will normally serve only half of the sentence). But even then, in England there are other possibilities: bailiffs may be sent to your house (see separate notes on dealing with bailiffs), or you may be kept in the court building for the rest of the day and then released. Remember prisons do not release at the weekend so if you are due out on Saturday or Sunday they will release you on Friday morning. If you are handing yourself in you can time it to minimise the days spent inside.

Will I lose my DSS benefits?

If you are found guilty and fined, your local court may get a deduction order from your Income Support or JSA benefits (but not Incapacity Benefit), but this has not been standard practice in most courts.

If you are on a protest camp or a long walk, you may be deemed to be making yourself unavailable for work, and so may have trouble claiming JSA. This should not affect one-off actions or demonstrations, and in any case your local unemployed or benefits action group may be able to help (practice varies from place to place).

Incapacity benefit (depending on a medical certificate) should be more secure, and we've not heard of problems with it arising from demonstrations or actions, although it could be a problem if you are already being called in or investigated as a 'marginal' case.

Will I lose my job (or not get one in the first place)?

That depends on your employer, but you shouldn't (unless you do something major). You will have to declare recent convictions on job applications, though, and for certain jobs, you have to declare all convictions, even if they are very old ones.

The rules for when you have to declare convictions depend on the sentence that you got for them. The basic idea is that after a certain time, all but the most serious convictions become 'spent' and you no longer have to declare them. The time periods are as follows: for a fine, 5 years; for prison (less than 6 months), 7 years; for prison (longer), 10 years. These periods are halved if you are under 18. For a conditional discharge, binding over order or probation order, the period is one year after the end of the period specified in the order (i.e. probably 2 years after the court case). For an absolute discharge, it's 6 months.

BUT for certain jobs, these time limits do not apply, and you may have to declare all your past convictions, however old. These jobs are in teaching, social work (most kinds, except administration work), medicine (and dentistry), the law, accountancy, police and armed forces.

Note that just because you have to declare convictions, doesn't mean that you will automatically be ruled out of getting a job. It is most likely to be a problem for trainee social workers: in some areas, having any kind of conviction makes getting social work experience very difficult.

7.2.6 Notes for Non-British Ploughshares Activists

If you are an EU/EEA national

You should have no problems gaining entry to Britain even if you have signed the Pledge to Prevent Nuclear Crime. EU law restricts the powers of the immigration authorities to refuse you entry, and there is no effective control of entry for EU nationals.

If you are charged and convicted of a criminal offence, it is possible that a deportation order (D.O.) could be made against you, but this is unlikely unless you have committed a very serious offence. D.O.s should only be made in relation to EU/EEA nationals if they represent a 'present threat to the fundamental interests of society'. However, recently a Dutch Pledger having been charged with only Breach of the Peace and Breach of Bail has been given notice that the court might move for a D.O. if she is convicted. Obviously we have a solicitor fighting this all the way and it might just be a move by the Crown to try and deter our international activists. You have the right of appeal in respect of any deportation proceedings whether initiated through the criminal courts or administratively although you could be held on remand throughout the appeal process. Of course if the Government did

ever succeed in deporting anyone for preventing nuclear crime in the UK it would galvanise the peace movement in their country of origin to join in the campaign.

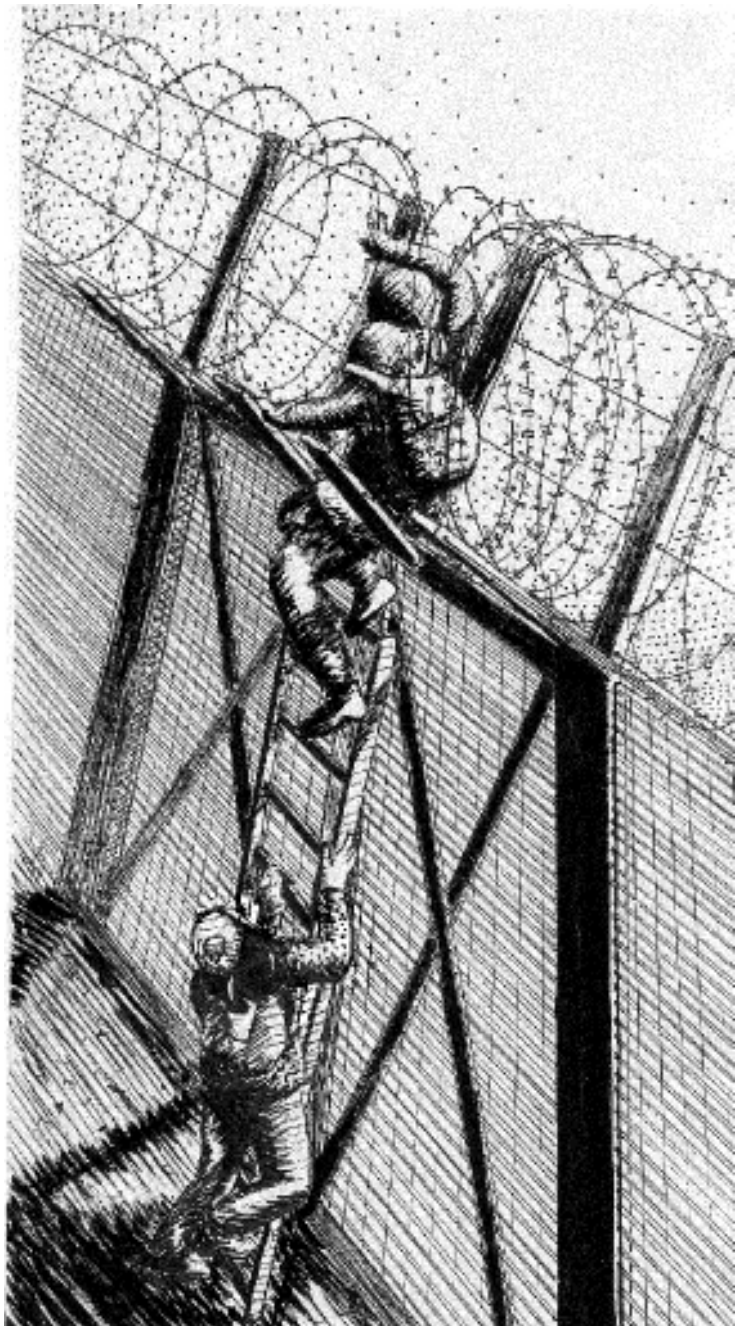
The father of another Dutch activist was phoned by someone claiming to be from Interpol to inform him that his son was in Scotland and had been arrested. He was told that it was normal procedure to do this although it clearly isn't. If you don't want there to be any risk of your family being bothered by Interpol then think carefully about which address you give the UK police as a contact.

If you are not a national of one of the EU/EEA states

You should give some thought as to how you answer any questions that may be put to you on arrival about the purpose of your stay. You may also like to think about the contents of your luggage, in case your bags are searched. Make sure you have the required visa if you need one! Even if you have a visa, or if you do not need a visa, you can be refused entry on arrival. The two grounds for refusal which could apply to Trident Ploughshares activists are:

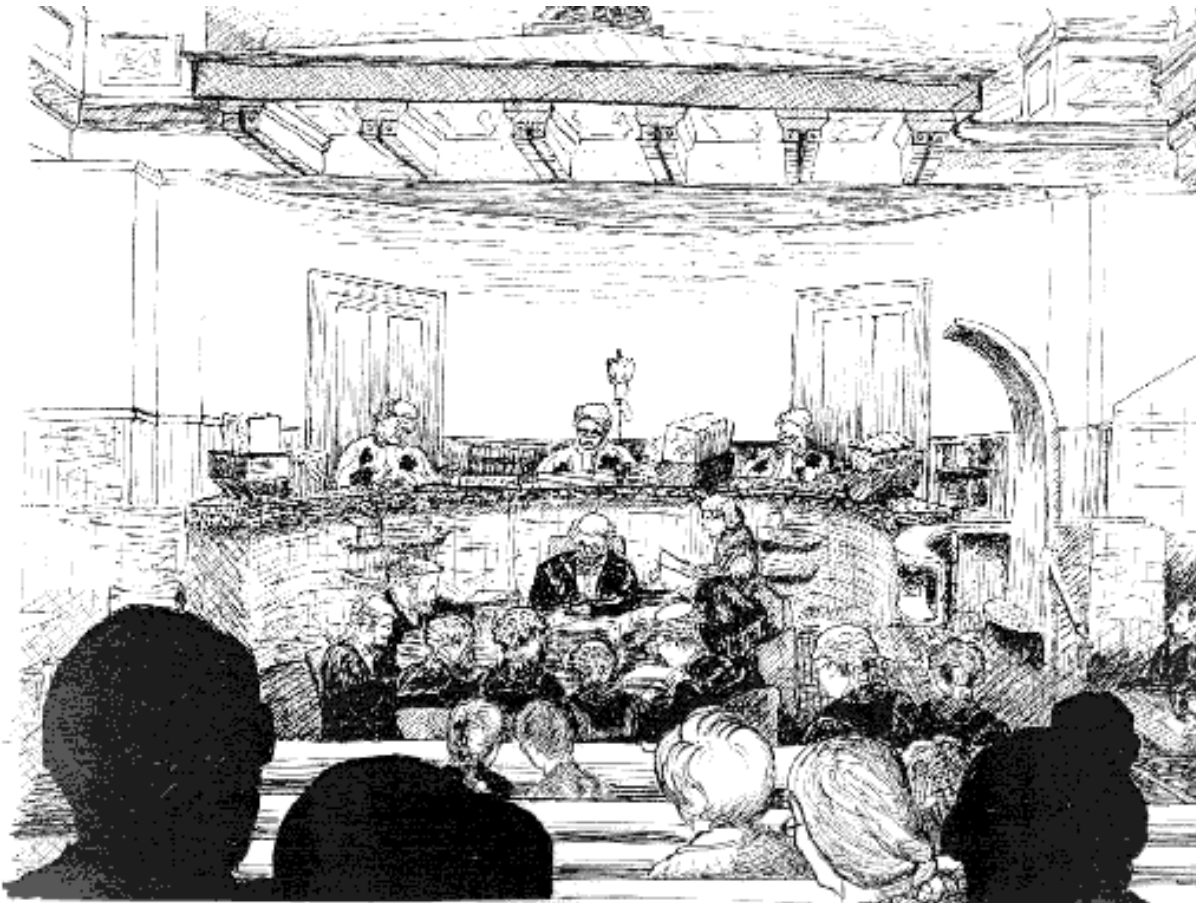
If exclusion from the UK is conducive to the public good. The Home Secretary can make an order to this effect, or an immigration officer can decide to exclude you when you arrive. Refusal of entry is most often applied to known drugs dealers but it could be used against Trident Ploughshares activists if their intentions are known to the authorities. You may like to consider signing the Pledge to Prevent Nuclear Crime after your entry to Britain, or not disclosing that you are a foreign national on the Pledge (the authorities may not work out that you are not already here) or entering the country through the Republic of Ireland (Eire).

If you have a criminal record in any country for an offence which would be punishable in Britain with 12 months or more in prison. Clearly, this may apply to some experienced activists! If you need a visa, you will be asked about your criminal record on the application form. If you do not need a visa, then you probably won't be asked about this, which will probably mean that the immigration authorities will not know. Again, if you are refused a visa, an option is to enter through Eire. Proceedings to deport you from Britain on 'conducive to the public good' ground could be brought even after entry if you come to the attention the authorities. You would have the right of appeal against a decision to deport you which would give you a great opportunity to argue that People's Disarmament is in fact conducive to the public good. If you are charged and convicted



with a criminal offence, then the Judge can make a recommendation to the Home Secretary when you are sentenced that you be deported. You have to be given seven days written notice that the Judge is considering making such a recommendation. A Judge's recommendation can be appealed within the criminal justice system, as an appeal against sentence. The Home Secretary makes the final decision about whether to follow the recommendation and sign a Deportation Order (D.O.) and decide to bring 'conducive to the public good' deportation proceedings even if the Judge made no recommendation.

Some people might feel it is better to leave the country voluntarily, if a D.O. seems likely, but this can be difficult if you are in prison! The disadvantage of a D.O. is that it remains in force even after you have left Britain, and to come back you have to apply for it to be discharged, and this is usually only done



after three years, or when your criminal conviction is 'spent', which ever is the longer. In effect, a D.O. means you will not be able to come to Britain legally for more than three years. It is less likely that a D.O. would be considered or made if you are only charged with a minor criminal offence. However, if you have committed lots of minor offences, or an offence at the more serious end of the spectrum, it becomes more likely that a D.O. is made. To date no Pledger has been denied access into the UK.

7.3 Scottish and English Legal Systems and Likely Process through the Courts

7.3.1 Scottish Courts

In Scotland there are three different courts, and they are described very briefly below. The maximum penalty actually available to the court will depend on the offence you have committed and the maximum sentencing power of that court. For what are called common law offences, which are those offences created by legal tradition and past precedent, (e.g. malicious mischief, breach of the peace) the maximum sentence will be the same as the maximum sentencing power of the court you are tried in. If the offence is created by legislation, there may be a

maximum penalty in the statute which is lower than the maximum the court itself is empowered to give in general. In either case, there will be practice guidelines which will indicate the type and amount of penalty you should be given, and any excessive sentence can be appealed against.

District Courts

These are local criminal courts. The judges are justices of the peace, who are not legally qualified but who are assisted by a clerk who has legal qualifications. The procedure is always 'summary', which means there is no jury, and only more minor offences are tried in such a court. The maximum penalty a district court can give you is 60 days in prison or a fine of up to £2,500.

Sheriff Courts

These are local courts which can deal with any offence except for rape and murder. The judge is called a sheriff and is legally qualified. You can be tried with or without a jury in this court. For common law crimes, the prosecutor decides whether or not the judge will be assisted by a jury. The maximum penalty in this court is 3 years in prison, and an unlimited fine if a jury has tried the case; and if a jury has not been involved then 3 or 6 months in prison or a fine not exceeding £2,500.

High Courts of Justiciary

The High Court can give a maximum sentence of life imprisonment or an unlimited fine. A summary only offence (like vandalism) cannot be tried in this court. The High Courts can otherwise try any offence which took place in any part of Scotland. Trials in this court always take place in front of a jury, and the judge is called 'Lord Commissioner of Justiciary'. Unless you commit an offence at the serious end of the spectrum, you are very unlikely to be tried in this court.

Kinds of Hearing

There are various different kinds of hearings at the different levels.

Pleading. If you receive a citation in the post there will be a form you can fill in and return to plead. You can turn up in person if you prefer. This has the advantage that you can argue about any trial date that you are given if it is not suitable to you.

Intermediate. This is usually 1 to 3 weeks before the trial and is to check that both sides are ready to go to trial. If one side is not ready for any reason then the trial gets cancelled and new dates set. Although technically you are supposed to appear in person at the intermediate many people have written to say that although they are not there they have every intention to appear at their trial and are ready to go ahead. At the pleading sometimes people ask not to have an intermediate or to be excused attendance at it. The court seem quite happy to do this if you have a solicitor but you may have to be prepared to argue if you are representing yourself.

Trial. This should go ahead on the date given, however, there are many occasions when trials have been adjourned because police witnesses are missing, the court runs out of time, or even because the Procurator Fiscal has lost her voice!

Notional Trial. If there has been some reason for the trial not going ahead and another hearing is needed to work out the way forward then a notional trial is set. The trial will not be able to proceed on that day, as there will be no prosecution witnesses. This has happened when for example we have asked for adjournments until the Lord Advocates Reference has been heard and the judgement issued.

Diet of debate. If you have raised a Devolution Issue or used any other procedure that requires a legal ruling before the trial can take place (eg challenged the validity of the byelaws) then a date will be set for a Debate to take place.

Raising a Devolution Issue. When the Scotland act was passed in 1998 as well as bringing into being the Scottish Parliament, Scotland signed up to the European Convention on Human Rights (ECHR). Since then anyone can raise a 'Devolution Issue'. This means if you think any aspect of the proceedings against you is a breach of your human rights you can challenge that before the trial. There are specific procedures you must follow laid down in the Act of

Adjournal (see www.legislation.hmso.gov.uk/si/si1999/19991346.htm)

Appeals. If you want to appeal the verdict or the sentence or both you must lodge an appeal form within 7 days of your conviction. The Clerk of the court will probably tell you to get this from the TP legal support or our website! The Magistrate, with the Clerks help, then prepares a Stated Case (their version of what happened at the trial and the reasons for conviction). You have 3 weeks to propose adjustments. After a hearing at which these are allowed or not, and which you can attend to argue your point of view, the final Stated Case is sent to you. You send it to the High Court of Justiciary in Edinburgh where a Judge decides whether to grant leave to appeal. If it is turned down you can have another try with three judges this time. It can all take a long time, but your fine is put on hold while it is being processed.

7.3.2 English Courts

The following account of the English court system is necessarily brief and incomplete. There may be further information on the TP website, or you can get briefings on court procedures in England and Wales from the Activists' Legal Project, 16b Cherwell Street, Oxford, OX4 1BG, email activistslegal@gn.apc.org, tel 01865 243772.

There are two types of criminal courts in England and Wales:

Magistrates Courts try most minor offences, and even the big cases begin in the Magistrates Courts. The 'judge' consists of three magistrates (also known as 'justices of the peace'), who are local lay-people (i.e. unpaid, not professional lawyers - traditionally, and often, petty gentry). They are assisted by a trained lawyer acting as 'clerk', who does most of the speaking in the court. As an alternative, you may have a single stipendiary magistrate instead: (s)he is a trained lawyer, and is paid, more like the 'sheriff' in the Scottish system.

Crown Courts try the most serious offences, which are referred to them from the Magistrates' Court. They have a Crown Court (i.e. senior criminal) judge, and a jury (in most cases).

Certain cases (including currently all theft cases and criminal damage over 5,000 pounds) can be tried in either the Magistrates or Crown court. They are known as 'either way' offences, and the choice of which court hears them is up to the defendant (but this may change in the near future).

All cases begin in the Magistrates' Courts, so these notes only cover hearings in those courts. There are magistrates' courts in most towns, although they may be combined for administrative purposes into larger areas, so the address to write to may not be exactly where your case will be heard. The first hearing is a 'plea' hearing. If you plead 'guilty', you will usually be sentenced on the spot (unless it is a serious offence or the court requires probation

Crumbs Of Comfort From The C.I.D. by Maire-Colette Wilkie

Whatever else is going on in the world, Lothian and Borders CID takes Trident Ploughshares seriously! From very early on in the campaign, they have visited members of the Adomnan of Iona Affinity Group on a regular basis. Usually their enquiries take them to the home of Alan and Maire-Colette Wilkie, but they have dropped in on other Adomnan members and also visited Ceilidh Creatures. On different visits there have been usually two, but sometimes one and sometimes three, officers. Most recently there has been some continuity in the two males and one female. On every occasion the appointment has been politely requested and mutually agreed in advance. Courtesy, friendliness and good wishes abound!

As we see their interest as a golden opportunity for peace education we have been more than happy to co-operate! Naturally, the information we supply them is what is already on the TP web-site or published in 'Speed the Plough'. There is seldom much we can say about our own plans as these so often emerge rather nearer the action dates than the CID visits which have usually been timed for a couple of weeks before the TP Disarmament Camps.

Ever since their first visit they have wanted to know the names of those who are in the Adomnan Group. Having obtained the full agreement of all the Group members in advance, we have had no problems providing this information and updating it from time to time. From the start they have been informed very thoroughly of the nonviolent and fully accountable nature of the campaign, and were given copies of the Trident Ploughshares Handbook, training video, and 'Adomnan's Law'. These basic sources have been supplemented by reports of the progress of TP activists through the lower and higher courts and illustrated by photographs of us in action!

From an initial attitude of polite and slightly bemused interest in the early days, there has developed a real dialogue. Latterly, the visiting officers have expressed real concern about our welfare. For instance, to our surprise, they raised the potential problem that their visiting us in our home might infringe our human rights!

And what do we get out of it? Firstly, it means Alan has a good excuse to have some chocolate cake for tea! (We always prepare a nice respectable afternoon tea session!) Secondly, thanks to their request to keep them informed of what is going on, we have their phone number that we can call from Strathclyde police cells when we are arrested! This has produced some very mixed re-actions! We like to think it has helped speed up our own post-arrest processing a little. Certainly, 'our three' have always grinned about it afterwards, made slightly derogatory remarks about other forces' handling of situations, and told us to "feel free" to call them at any time!

And thirdly, yes, we also get jolly substantial crumbs of comfort! That is because, after the first three or four visits, they started to bring contributions for the tea party! (Shortly before the August Camp, they even took us out to dinner - at Henderson's vegetarian restaurant!). Despite our protests the gifts increase in size and number! It is very touching that it is obvious that careful thought has gone into the purchase of vegetarian-suitable cakes or biscuits. (We have never mentioned any preferences!)

As a result of the generosity of Lothian and Borders CID, the Adomnan Group has enjoyed some very satisfying meetings, and our local Justice and Peace Group has entered enthusiastically into the spirit of consumerism. One large iced cake was shared with many TP activists and Strathclyde and MoD Police during the May Carnival 2000 Action at Faslane. It is possible that we will get through the coming Christmas without any need to purchase a treat for Alan, as a fruitcake from the last visit has a 2001 use-by date!

Humans are not the only beneficiaries from these CID-sponsored delights. Thanks to the opportune visit of the 'Dorkey Bird' (See Psalm 84:10 - it's a long story!) very early in this saga, - a blackbird who knocks on the back door and waits to be hand-fed several times a day, - now our three official visitors positively look out for her arrival. They shout, "here she is", and then suspend conversation as Maire-Colette and the bird conduct feeding operations and chat! 'Dorky' has obviously trained her descendants as even after two years one still visits us three or four times daily and gorges on left-over cake crumbs. (Of course, she is really an 'owl' and takes secret messages to Jane Tallents, but the CID has not worked that out yet!)

We respect the request for anonymity of the three officers. They have some very sensitive work to do and have treated us with respect. We like to think they enjoy a friendly chat in pleasant surroundings and that they have entered into the spirit of the TP campaign as far as they feel able at present. Even if we are deluded by their friendliness it is vital that we act in accordance with our principles. It costs very little to be hospitable and Alan enjoys trying to teach them the basics of international humanitarian law! Treating others as we would like them to treat us is, after all, part of what our whole campaign is about, isn't it? If your local police force drops in on you, we hope you enjoy the experience as much as we do. And send us an owl!

reports etc). If you plead 'not guilty', there are three options depending on how serious the offence is:

- (a) for very minor offences, a date may be fixed for the trial, and there will be no intermediary hearings.
- (b) For the most serious (Crown Court) cases, or for 'either way offences' if you or the magistrates opt for a Crown Court hearing, a 'committal' hearing may be fixed (after that the case will be transferred to the Crown Court).
- (c) For most charges, a 'pre-trial review' will be fixed.

Pre-trial reviews (PTRs) are intermediary hearings, in which arrangements are sorted out for the trial. You need to ensure that you have contacted all your witnesses by then (so that you know of any dates that they will not be able to attend a trial on), and to have worked out whether you will call any 'expert' witnesses (to talk about matters of law or nuclear weapons etc, that you may be relying on in your defence). The court may insist on your submitting statements in advance for any expert witnesses you intend to call, and the prosecution can object to them. Some courts dispense with pre-trial reviews, and they can be a nuisance, but they may be useful, especially if you need to get hold of documents for your defence or you want to call expert witnesses.

In theory, you have to turn up in person for the plea hearing and any PTRs, unless specifically excused: some courts have special forms that you can use, if you want to plead 'not guilty' by post. (They will send these out with the summons, if they use them.) In practice, you can almost always write to the court in advance if you plan to plead 'not guilty', and often for PTRs also - TP legal support may be able to help with this.

The trial hearings are fairly similar to trials in Scotland. You should contact TP legal support for additional briefings or advice well in advance, at least if you are not going to use a solicitor. If you are found 'guilty', you will probably be sentenced (probably fined or given a conditional discharge, for minor and first-time offences) on the spot, although the court may adjourn sentencing for a future date (especially for more serious offences).

Unlike in Scotland, court costs are usually awarded against you if you are found guilty, and you can claim them back if you are found not guilty. For a guilty verdict, the court costs are typically about 200 pounds per full day (i.e. for a trial starting at 10 a.m. and going into the afternoon), but may be more if there are many police or MOD witnesses called against you. These costs are shared between all defendants if there are several of you, and are usually the most expensive part of the sentence for minor offences.

The appeals system is different in England from Scotland. Basically, there are two kinds of appeal. First, you have an automatic right to appeal to the Crown Court by notifying the Magistrates' Court AND the Crown Prosecution Service of your intention to appeal. In the Crown Court, a judge will hear your

case (without a jury). As this is a full re-trial (with witnesses etc), the court costs may be high if you are found guilty again, and the judge can impose higher sentences (although you may get a better hearing, and there's more chance of an acquittal if you have a good legal case).

Alternatively, you can apply for an appeal by 'case stated', which means that you have to have a specific LEGAL ground for your appeal, which then consists mainly of legal argument, without witnesses etc. (You can also appeal by 'case stated' from the Crown Court, after appealing there from the Magistrates' Court.) This is like a Stated Case appeal in Scotland, except that it may be dismissed very early on, without ever getting a draft case from the magistrate, and you may have to put up a 'bond' in advance, agreeing to pay the prosecution's costs if your appeal fails.

7.4 Summary of Legal Proceedings against Trident Ploughshares Activists

After two years of camps and actions Trident Ploughshares has made it into the courtrooms at various levels and in a variety of locations. The frustrations of how slowly the wheels of justice seem to grind most of the time have to be balanced by the incredible speed with which the arguments about the legality of Trident have ended up before the highest court in Scotland (whatever the outcome, at least the Judges at the Lord Advocates Reference have heard the legal arguments against Trident).

As this is written in Nov 2000 there have been a total of 775 arrests since TP started direct action against Trident in August 1998. 350 different people have been arrested, 236 of them just the once and the other 114 clocking up over 500 arrests between them.

What these statistics mean is that there are a lot of people who have responded to our calls to come along and join mass blockades. There is also a substantial core of people who persist in going back time and time again to confront nuclear crime.

A total of 89 people have had or are due to have court proceedings against them. Most people have not been prosecuted after their first few arrests (some being arrested four or five times before being given this honour) although some people have been prosecuted after only one arrest. Generally the trend is the more you are arrested the more likely you are to end up in court. The authorities particularly dislike having to take old (over 70) people to court or those with disabilities - the very people considered specially in need of protection under the Geneva Convention Protocols!

Activists regularly appear for trial for something they have done over a year previously. This is in part due to the pressure we have put on the courts especially the Argyll and Bute District Court in Helensburgh which used to only sit once a fortnight. In the middle

of November 2000 we have trials in Helensburgh three days running! Brian Quail appealed his conviction for an action at the first TP camp in August 1998 and although the High Court has agreed to hear his appeal they have yet to do so two years later (it has now been adjourned until after the LAR).

Of the 185 people arrested at the Crimebusters blockade on Feb 14th 2000, 22 were sent citations to come to court and another 7 were sent £25 fixed penalty fines and were then cited to come to court when they didn't pay up. Less than half of these have been tried yet, usually receiving a £50 - £100 fine, although there was a £200 for someone with a long record and £250 for a member of the Scottish Parliament. Of the 34 arrested at Aldermaston in May 2000 only eight are being taken to Newbury Magistrates Court.

Several cases in Scotland have been taken to the Sheriff Court. This has been when the Procurator Fiscal has tried to trump up more serious charges although he has not succeeded in convicting anyone on these. There is also a case with a threat of a Deportation Order due in the Sheriff Court. And recently one activist with a disability has received a citation for the Sheriff Court simply because the Helensburgh District Court currently has no disabled access!

The notorious Greenock trial of The Trident Three was in front of a Sheriff and Jury. Although Sheriff Gimblett took the decision away from the jury and acquitted on legal grounds the jury did hear most of the evidence and we were hopeful that they would also have found Ellen, Angie and Ulla not guilty if it had been down to them. The scope of the evidence and the arguments during this four-week marathon was a world away from the superficial justice experienced at District Court level.

In England there have been various trials in the Magistrates Court and the Crown Court and there are others due in 2001. Often these have involved the calling of expert witnesses to put the facts of why Trident is illegal before the courts. Usually this has been discounted by the magistrates and judges.

At Middlesex Crown Court the jury at Helen's trial asked if they could take international law into account when reaching their verdict. The judge said no, but when they found her guilty they said "We are unanimously agreed that the defendant had reasonable cause for her actions".

The trial of Rosie and Rachel is scheduled for Manchester in April 2001, the third attempt! The first was abandoned after the Crown estimates of the damage were shown to be flawed. At the second the jury found them not guilty on one charge and couldn't come to a decision on the second.

All of these cases have been inspiring and it is well worth supporting the defendants and witnessing their powerful testimonies first hand.

(More comment on these trials at 7.6).

7.5 Outline Skeleton Defence

Below is the skeleton of the argument that Advocate John Mayer put to Sheriff Gimblett at Greenock. It can be adapted to fit your circumstances, and can be used as a straight defence to a magistrate.

If the Jury, on a fair interpretation of all the evidence, is entitled to find:

- (i) that on 8th June 1999 the British Trident Nuclear Submarine fleet (hereinafter referred to as 'Trident') carried weapons of mass destruction in a state of readiness for use,
- (ii) that on 8th June 1999 the barge Maytime was part of the support structure for Trident,
- (iii) that on 8th June 1999 Trident was, as a matter of fact, being used for purposes which amounted to a threat to use that weapon,
- (iv) that such a threat was a crime under international law and hence under Scots Law,
- (v) that the three accused, like all citizens, had a legal right under the same international law and Scots Law to prevent that crime,
- (vi) that the three accused, having, for all practical purposes, exhausted all other lawful attempts to prevent the said crime acted as libelled in exercise of their legal rights, or,
- (vii) that, because of the constant danger of mass death or severe injury posed by Trident, the three accused acted objectively out of necessity,
- (viii) that in so acting the three accused did so wilfully but not maliciously;

then it (the Jury) would be entitled to find the accused NOT GUILTY.

There are plenty of documents available to support the propositions above from the ICJ Opinion to Scottish CND's Trident report. Many other documents are listed and can be found reproduced on the web-site. You can add your own personal account of all the lawful things you have tried in the past to prevent nuclear crime and/or examples of letters sent on behalf of everyone in TP to the Government. (See Part 3.2 for a summary of the dialogue with the Government and the Military).

There are now several detailed and well-researched legal defences for reference. They are either on the web-site or can be ordered from the Legal Support Team. We also have a list of recommended local lawyers for use by those on legal aid, as well as a list of 'expert witnesses' you may wish to call in your defence.

For all this information contact the Legal Support Team.

A dramatic and useful document to present to the court is a map showing the result of a nuclear warhead exploding in your town or where the court is. John Ainslie is willing to prepare these for anyone. Contact him at Scottish CND 0141 423 1222 or e-mail cnscot@dial.pipex.com



7.6 Trident Ploughshares Cases Using International Law

By December 2000 there have been 94 instances of people coming to trial in British Courts for Trident Ploughshares actions. In most of these the immorality of Trident has been made clear along with peoples' own motivations for taking action. However, in many cases the illegality of Trident under International Law has also been used as a defence.

Right from the first TP cases in August 1998 people were raising the illegality issue in the Helensburgh District Court. The Procurator Fiscal blocked all questions to police witnesses about their knowledge of the Geneva Conventions etc, dismissed any evidence from expert witnesses and took a basic line that the UK's deployment of Trident didn't amount to a threat, even if it did it wasn't a breach of International Law and even if it was, International Law doesn't apply in Scotland!

The valuable experience at this low court level helped in refining the arguments, which won the acquittal of the Trident Three at a Sheriff and jury trial at Greenock in September 1999. The trial lasted 19 days and Ulla and Ellen were represented by Counsel with Angie defending herself. Professor Francis Boyle was flown in from the US to give expert testimony about how nuclear weapons breach International Law. Professor Paul Rogers explained how Trident wasn't just possessed but its use was threatened as a matter of policy. Judge Ulf Panzer told the Court how Judges and Prosecutors for Peace in Germany blockaded the Pershing nuclear missile base. Rebecca Johnson told how many of the diplomats she met in her role as an independent defence analyst felt that their countries were under threat because of the UK's deployment of Trident. At the end of the legal submissions Counsel asked the Sheriff to take the decision away from the jury and acquit the women because they had shown that they had justification

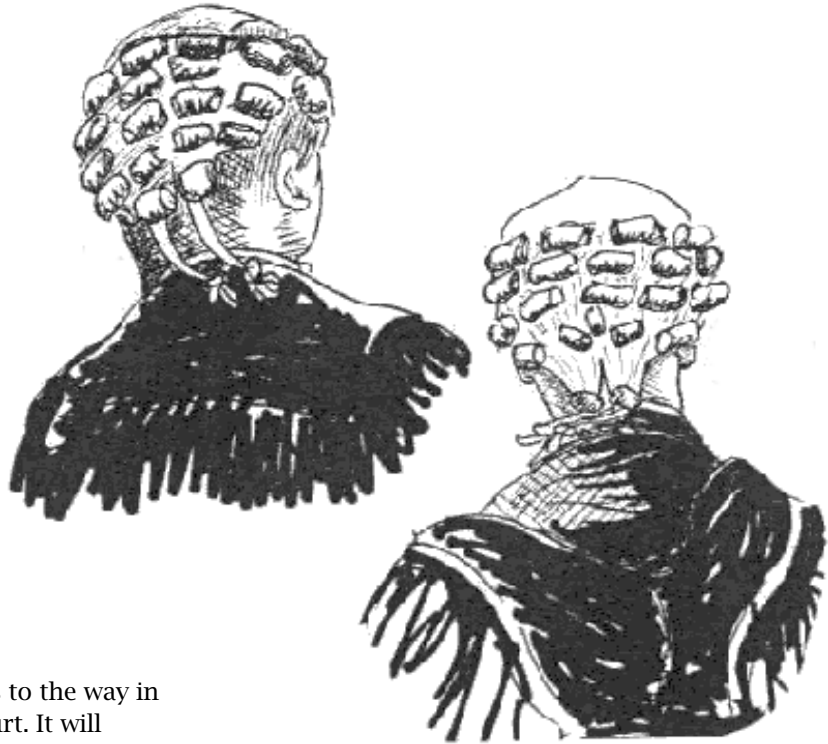
under International Law and the Crown had not rebutted the argument. Sheriff Gimblett agreed with this and they were acquitted. Under Scottish Law this verdict could not be appealed by the Crown. However, because of the huge furore caused by this decision the Lord Advocate referred questions arising from the case to the High Court.

The first real testing of these waters in England came in February 2000 when four members of the Midlands affinity group were on trial at Newbury Magistrates for cutting the fence and getting in to Aldermaston. The prosecution had been warned in advance of the defendants' intention to raise a defence under international law, but chose not to counter that defence, relying solely on the fact that the defendants were there without permission of the management and had cut fencing. For the defence Professor Nick Grief was called as an expert witness to explain how and when nuclear weapons would be in breach of International Law. William Peden gave evidence about Trident warheads and how AWE was manufacturing them at the time of the action. Frank Barnaby gave more technical information about the warheads and what would happen if one were used. The defence counsel argued, "I ask you to acquit on the basis of their belief in the immediate need for the protection of property, to avoid the consequences of nuclear accident and nuclear war, on the basis that what they did was reasonable having regard to the circumstances". The magistrate found them all guilty and ruled he would not consider International Law if it was not incorporated by statute.

The legal proceedings against Rosie James and Rachel Wenham for trashing testing equipment on HMS Vengeance continues to be a long and frustrating saga for the Aldermaston Women Trash Trident affinity group. The action took place Feb 1st 1999 and eventually after defence motions to get it moved from Preston (where the Bread Not Bombs group had had a judge who was totally unprepared to listen to International Law arguments) the trial started in Lancaster on 24th January 2000. The prosecution only lodged their estimate of the cost of the damage at the last minute. The original charge had been for damage worth £25,000 but by the second day of the trial they had produced a figure of £110,000. Eventually the judge agreed to discharge the jury and order a re-trial to give the defence a chance to get an expert to look at the figures. After further motions to move further from Barrow the second trial began in Manchester on 11 September 2000. With the estimated damage still fluctuating between £318,000 and £915,000 the trial was completed after hearing from Prof. Paul Rogers, Angie Zelter and Rebecca Johnson. The jury found them not guilty of the second charge of damaging the submarine by painting messages on it but couldn't get even a majority verdict on the first charge of damaging the sonar testing equipment. A third trial is set for April 2001.

The clerks and the PFs at the District Court at Helensburgh openly admit to being under pressure from the number of our cases. Many of the same International Law arguments are put before them and appeals lodged when there is a guilty verdict.

The judgement from the Lord Advocates Reference should be issued in early 2001 and whatever it says we can be sure that with another 45 trial dates to come the issue of the legality of Trident and the right of citizens to intervene to disarm it will continue to be argued in (and out) of court.



7.7 Options Open to You

7.7.1 In Court

There are many options open to you as to the way in which you may conduct yourself in court. It will depend on your ideas of accountability and recognition of the court system and also with what you, and any others you may be appearing with, feel comfortable with. So, apart from the obvious conventional choice of dressing smartly and putting a serious, well thought-out, respectful, legal submission together, here are a few other ideas to get you thinking.

- Refuse to turn up in court at all. A warrant will be put out for your arrest and you will be charged with contempt of court. However please let the Legal Support Team know if you are not going to appear so they do not organise local support in vain and also let the Press Team know what you are doing and let them have suitable quotes from your defence so they can prepare good press briefings.
- Turn up but refuse to co-operate i.e. refuse to give your name or stand up. Similarly you may be charged with contempt of court.
- Recognise the court but refuse to defend yourself i.e. don't question witnesses, don't present a defence, perhaps just wait to be sentenced and then make your plea in mitigation. This can be a very dignified procedure with good precedents.
- Go along with the whole legal procedure and have real legal fun trying to make your point. You can either defend yourself or get a lawyer to defend you.
- You can also do things like dress up. People have appeared in court in all sorts of costumes from caterpillars - genetic mutants - early Quakers - wearing their University degree robes - national costumes.

It is worthwhile organising publicity, press releases, supporters with banners etc. If you are making a

speech from the dock then have copies ready to hand out to interested folk. Supporters cannot bring banners into the court but they can do all sorts of things like stand up for the accused, sing (briefly!), clap, bring flowers, turn their backs, walk out etc.

Remember that it is our justice system. The main thing to remember is that if you are on trial, you decide how far to push things. Supporters shouldn't do things for which you take the consequences.

If the Magistrate thinks that the behaviour of anyone in court is improper or disorderly they can be found in Contempt of Court. They can be taken into custody at this stage and brought before the court later for an opportunity to explain or purge the contempt.

So far most people have tried giving the Courts an opportunity to take our defences seriously, but there have already been occasions when activists on trial have refused to co-operate with the court in some way. Angie Zelter, on failing to get an assurance from the Magistrate that he would take account of her defence under International law, collected her belongings and prepared to leave the dock. She was taken into custody and reappeared in the afternoon where the trial proceeded. A fine of £75 was added for the contempt.

There may well come a stage (perhaps quite soon) when most Pledgers will want to move to total non-co-operation with the courts due to legal avenues being withdrawn from us and a feeling that the Courts have been given ample opportunity to act in the interests of natural justice and morality but are still backing the status quo and supporting by their judicial decisions the UK's criminal plans to use nuclear weapons. If this is the case then every individual will still make their own decision about

whether they wish to join in this non-co-operation or not and whatever decision they make will be respected and they will be given full support by the legal team. Some people may well wish to at least go once through the system before refusing to co-operate and others will feel that as so many people have now respectfully and carefully given the judicial system plenty of opportunity to uphold the basic principles of international law and they have failed us that it is right and proper to move to non-co-operation.

7.7.2 Fines and Imprisonment

The courts have so far imposed fines, compensation orders and (in England) court costs. They are supposed to take into account your ability to pay before setting the amount and deciding how quickly you should pay it. In reality it seems to depend more on the Magistrate/Sheriffs attitude to TP in general and the person on trial in particular. They can give a period of time e.g. 28 days for the full payment or set instalments e.g. £5 a week. They usually do this even if you make clear that you have no intention of paying a fine although they can send you straight to prison.

By Nov 9th 2000 we have collectively been fined £11,576. Only a very small proportion of this has been paid. It is of course up to everyone to decide if they are going to pay or not. Taking part in an action, getting arrested and being tried is already a big commitment and no-one should feel pressurised into going to prison. If you do decide to pay the fine it is worth considering some creative ways in which you can make clear you are paying under protest.

This will probably work best if you decide to do this early on while you still have the option of paying by weekly instalments. Try one, or all of the following:

- 1) Pay in 1p pieces.
- 2) If this is refused under the Coinage Act 1971, be aware of its provisions. Coins are legal tender and cannot be refused for values up to £10. Five and ten pence pieces are valid up to £5 and coppers up to 20 pence.
- 3) Pay, for example, a £5 instalment with five cheques for £1 each.
- 4) Cheques can be written on anything: a cheque on a paving slab could survive a nuclear war, a cheque on a 6ft cutout of a Trident sub would be difficult for them to get through the widow in the bank, a farmer once tried to pay a disputed bill with a cheque written on a cow (Our animal rights friends say "please don't try this at home"). They may well refuse to accept unusual cheques and it depends how far you want to push it. One submarine shaped cheque was refused to be replaced by a more conventional one, whereupon the Clerk sent a receipt...in the shape of a submarine!

Any fine however large can involve lots of other people in showing their support for the action by contributing to the fine.

If you don't pay up you will eventually be called to a Means Court, (unless the alternative was already imposed at your trial in which case you can go straight to prison). In Scotland under section 219 of the Criminal Procedure (Scotland) Act 1995, the following maximum periods of imprisonment can be imposed for non-payment of fines.

Fine in pounds	Time in prison
Under 200	7 days
200-500	14 days
500-1,000	28 days
1,000-2,500	45 days
2,500-5,000	3 months
5,000-10,000	6 months
10,000-20,000	12 months
20,000-50,000	18 months
50,000-100,000	2 years
100,000-250,000	3 years
250,000-1 million	5 years
Above 1 million	10 years

Most Courts transfer fines to your local court. This could be because it is deemed easier to get the money out of you closer to home or a simple case of 'passing the buck'.

In England not paying a fine is less straightforward. On the one hand several activists have been simply told to sit at the back of the court until the end of the day in lieu of their fine. One £600 fine was even 'remitted' (dropped) after attempts to collect it failed. Alternatively after giving you several chances to pay some courts send for the bailiffs.

7.7.3 Dealing With Bailiffs

If you are unable or refuse to pay a fine, costs or compensation, one of the magistrate's options is to issue a 'distress warrant'. This entitles an agent of the court, usually a bailiff from a private company, sometimes a police officer, to remove your property to be sold at auction to cover the money owed plus the bailiff's costs.

Having the threat of bailiffs hanging over you can be very unpleasant, the feeling of being under siege in your own home, constantly waiting for their arrival is certainly stressful. However, try not to panic, their powers are more limited than you think. If you are careful then it is certainly possible to see them off. If you fail then you can always pay them off. So, stay calm, be prepared and try to think of it as another piece of direct action.

If you are really organised, there are things you can do in advance of non-payment hearings to foil the bailiffs.

1. Own nothing. Only practical for saints, monks, nuns and the truly destitute you might think. But then again bailiffs can't take things such as your bed, clothing, spectacles and the tools of your trade, or

anything which is not yours or is on hire purchase. What they really want is a few high value items that will get them their money easily.

2. Remove any valuable items and hide them somewhere else.
3. Sign a letter making over your goods to a friend or partner. This needs to specify exactly what goods are being made over and it needs to be witnessed by a solicitor. This method could lead to other problems. If you try this send a copy to the bailiffs and keep a copy by the door.
4. Hold an auction of all your belongings. This sounds even more drastic than the last, but need not be. If the sale contracts specify that you will deliver the goods when it is convenient for you and if the purchasers understand that it never will be a convenient time then this can be a bailiff avoidance tactic and a fundraising event all in one without causing you any problems. (I am still the proud owner of the garden shed and all its contents of one well-known peace activist.)

Even if you don't try one of these ideas, once the bailiffs have been called for it is better to take pre-emptive action than to just wait for them to arrive on your doorstep. Try to find out the name of the bailiffs and their address. A fellow tenant could try calling the clerk of the court, worried that the bailiffs might take their property by mistake (and anyone could be a fellow tenant on the phone). The bailiffs are also likely to write to you first asking for the money and revealing their name and address.

Once you know who the bailiffs are write to them immediately. Making as many of the following points as apply to your circumstances.

- A) That you have received legal advice that they have no right of entry, that you will not grant them entry, that you will not pay them the money and so they are wasting their time and money by calling.
- B) That you do not have goods to the value of the money claimed. This may only be plausible if you

have taken one of the steps above (if so send them proof of the auction or transfer) or it is a large sum of money owing. Otherwise confine yourself to pointing out the lack of things that are likely to be on the top of their list, high value items lying around outside, a car, or easily sold large items inside.

C) That you are applying to the court that called them in for a further means enquiry and will be asking for the distress warrant to be rescinded in the meantime.

D) Always explain why you are refusing to pay, say something about Trident Ploughshares, about your reasons for taking part in it and about how the issues involved are still being dealt with in higher courts. Point out that if the higher courts rule that Trident is illegal you will be considering legal action to recover fines, bailiff's fees and to claim compensation for false arrest etc. If they pursue their actions they will make themselves liable for this.

After receiving such a letter they may well give up. Bailiffs make their money on the fees from easily recovered sums. It's not worth their while pursuing the difficult cases.

Once you have got to this stage assume that the bailiffs could arrive at any time with no prior warning. When they do show up the most important thing to remember is, DON'T LET THEM IN!

They have no powers to force an entry into the building; they can however get in by a ruse, or through an open window. They can also force internal doors - which is a problem in the case of shared houses. When expecting bailiffs make sure that: -

- 1) Doors are kept locked and windows shut.
- 2) You don't open the door to strangers until convinced of their identity.
- 3) Others in the house know these rules.
- 4) You don't leave valuable items lying around outside.

Can Pay, Won't Pay - One activist's tour through his local court by Roger Franklin

Four of us came out of a 3-day trial in Newbury with demands for compensation to the MoD, and for the costs of the prosecution. The trial took place 7 months after we had started to decommission the AWE at Aldermaston one night in July 1999.

Two months later, May 5, 2000, I went, by appointment, to Stroud Magistrates' Court, to which enforcement of the payment had been transferred where I explained briefly why I was not willingly going to pay the £570 that was demanded. I had already sent 3 pages of such explanation, plus related documents to the Court, (and to the press), some time in advance. The magistrates said they had read them.

After a short discussion, followed by whispered consulting between the magistrates and the Clerk of the Court, I was told that bailiffs would be sent to my house with a distraint order to take some of my property - for sale at auction. There followed the siege of Tickmorend - (Nuclear Free Zone), which wasn't lifted for 3 months. First a fierce notice, with red capital letter warnings, from the London-based bailiff, followed by a second from their removals dogsbody - also in London - each giving me a week to pay before they would arrive.

I made the house as impregnable as possible for a 330 year-old building, and locked doors behind me when going out, even to the garden. A notice on the front door warned bailiffs to be careful with (non-lethal) booby traps around the back, also a copy of The Guardian's report on uncomplimentary comments by Citizens Advice Bureaus about bailiffs.

Fortunately, no bailiffs arrived at the occasional times when I had to relax precautions because of visiting family. Then a friend in the village was asked by a bailiff he had met at a concert about what sort of profitable pickings there might be at Tickmorend. The reply was that, with no car, and not many electronic treasures, the bailiff might do better at some other places on his list!

I returned from the camp at Coulport in August and was told that no bailiffs had been seen during my absence. But next morning, 16 August, just after I'd had a comfortable breakfast, a local policeman arrived at my door with a warrant for my arrest. He drove me to Stroud police station, in the same building as the Court, and I was subjected to the usual arrest processing: removal of possessions, carefully listed, including my belt - but no fingerprinting or photography. After about half an hour in a cell with a permitted book, I was tunnelled up to the secure dock in the Court in front of three magistrates and the Clerk - with no public audience, of course.

Holding my trousers up as best I could, I was told that the bailiffs had not been able to collect, so the magistrates were deciding what else to do, short of prison. The decision was that they would give me another 3 months to pay. By this time, another compensation plus fine had been passed to Stroud Court from the Helensburgh Court - what can one expect if one uses the walls of a pristine MoD holding cell on which to write important messages?

Anyway, after the 3 months, the case would be sent to the County Court in Gloucester, which has the power to take 'Garnishee Proceedings' (seizing any money in bank accounts, etc.). It then dawned on me that this secret hearing, at which I had to affirm that I would speak plenty of truth - holding up one hand while the other clung to my baggy jeans - was for the purpose of establishing that maybe I did have money in a bank. To lie in such circumstances might have been unwise.

Fairly soon after, I was surprised to receive a notice to appear in Stroud Magistrates' Court again, 3 months and 5 days after the secret hearing - not so secret, actually, as the local press published reports based on what I told them. Recently, 4 weeks before the hearing, I have received a helpful explanatory letter from the Principal Court Clerk in Stroud, saying that he would now be advising the magistrates that garnishee proceedings would be rather a costly way to take such a 'small' amount (£750 now). Therefore, the magistrates may again have to consider imprisonment, and I may wish to have legal representation in Court.

Incidentally, the first notice I received from the bailiffs added on to the payment demanded their fee (for the letter?) of £90. But that fee has not been carried over now, perhaps due to the lack of success by the bailiffs. I might say, also, that in order to prevent the whole house being ransacked in pursuit of £660 worth of goods to sell at low auction prices, I did conceal cash in excess of that amount to hand over if the bailiffs had succeeded in gaining entry - and perhaps adding an extra charge for their efforts. The archaic rules for bailiffs allow them entry through any open window, on any floor, so it did get a bit stuffy in my house over some summer months.

I am responding to the helpful letter from the Principal Clerk at my usual length, saying I shall continue to represent myself, but reminding the Court again that imprisoning me would cost the State (i.e. the taxpayers) quite a bit of money, and would do little, to deter me from my duty of continuing to decommission illegal nuclear weapons. I am asking them if they have considered as an alternative, Community Service, and pointing out that I have considerable skills at cutting down unwanted fencing; there may be some such fencing around the local area upon which I could exercise this talent. This seems an appropriately Gilbertian solution.

Being so awfully honest, I shall also mention my thought that if I had been faced with the imminent threat of a big extra penalty being taken from my bank in the Garnishee Proceedings, I would have felt that the situation had come to cheque-mate. There are other good purposes to which such extra money could be put. Finally, I am helpfully suggesting that the correct course for the Stroud Court would be to tell the other Courts that it wants no part in enforcing punishments on people who are doing a legal and moral duty of decommissioning illegal nuclear weapons.

The rest of this tale may have to wait for the 4th edition of the Tri-denting It Handbook, although I hope no further editions will be necessary.

Post Script: On return to Stroud Magistrates Roger was told he had to pay £15 a week or go to jail for 28 days. He has now launched 'Franklins Freedom to Decommission Fund' whereby if supporters give him £15 cheques to pay the court he will donate his £15 installments to Trident Ploughshares and use his freedom to continue his decommissioning work.

If possible make arrangements to call someone over as soon as the bailiffs show up, they can act as witnesses if bailiffs are tempted to exceed their powers and they can argue your case more easily face to face than you can through a door.

If the bailiffs get in then you might just want to pay them the money (this will include their costs, which can be high). If you don't they can take property away or label it for collection later. It is an offence to remove or interfere with this labelled property. You still have the option of paying the money and getting your property back at any time up to the auction.

If you see the bailiffs off and the case is sent back to court the sum should revert to the original one and their costs will be set aside.

7.7.4 Useful Court Addresses

Scotland

Clerk of the Court (Helensburgh), Argyll and Bute Council, Kilmory, Lochgilphead, Argyll, PA31 8RT. Tel: 01546-604340. Fax: 01546-604444. Email: mail@legalservicesabc.demon.co.uk.

Sheriff Clerk's Office, The Sheriff's Court House, Church St, Dumbarton. Tel: 01389-763266.

Procurator Fiscal's Office, 2 St. Mary's Way, Dumbarton, G82 1NL. Tel: 01389-730972.

High Court of Justiciary, Lawnmarket, Edinburgh, EH1 2NS. Tel: 0131-2406907. Fax: 0131-2406915.

Lord Advocate, Lord Advocate's Chambers, 25 Chamber St, Edinburgh, EH1 1LA. Tel: 0131-2262626. Fax: 0131-226-6910.

England

Newbury Magistrates court, Reading and West Berkshire Magistrates Courts, Civic Centre, Reading RG1 7TQ. Tel: 0118 955 2600. fax: 0118 950 8173.

Aldermaston address - AWE Aldermaston, Reading, Berks, RG7 4PR. (Ministry of Defence police there Tel: 0118 982 6286)

Attorney General, 9 Buckingham Gate, London, SW1E 6JP. Tel: 0207 828 7155. Fax: 0207 931 7455.

7.8 Guide to Prisons and How to Cope

7.8.1 Preparation

In your affinity groups:

Talk about fears and what you think prison will be like.

Find out about prison from people who have been before by contacting those who have written prison notes in this Handbook or from prisoner organisations (addresses below).

Decide what kind of support you want when in prison. For instance regular letters written to you, prison visitor rota organiser, support from your affinity group supporters. Maybe one person in the

affinity group could take on the major responsibility for facilitating prison support? Or does each activist want one specific prison-support buddy?

Share thoughts about your long-term responsibilities to children, parents, friends and pets and what kind of help you need to do this.

Discuss what you can all do in prison to further your acts of disarmament - letter and article writing.

Discuss and prepare plans for further education or recreation time whilst in prison. Are there any correspondence courses you have always wanted to do and have never had time for? Can you get sponsored for every week in prison to pay for these courses? Think creatively.

Discuss the formation of a support group for the affinity group. If it is likely that the whole affinity group might get arrested and put in prison at the same time then maybe a support group is needed outside of the affinity group. This supporters group might like to meet the whole affinity group before any actions.

As individuals:

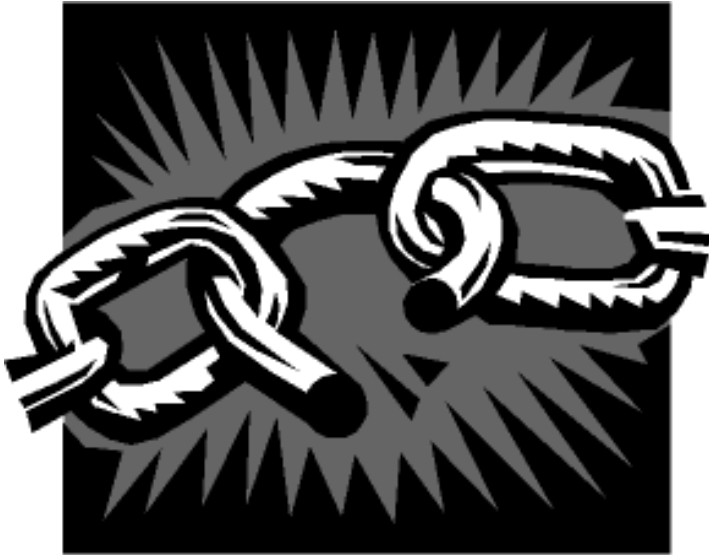
Acknowledge your fears and worries about prison and take them to your affinity group to share.

Let friends and family know what you are doing if that is feasible. Work out your personal responsibilities and make sure that plans have been made to take over any that you cannot deal with whilst in prison. For instance, can you arrange other signatories on your account so they can pay bills for you whilst you are away? What about housing when you come out? - housing benefit is only paid whilst you are on remand and for 13 weeks of a sentence. Try to sort out all unfinished business - it is a kind of long journey you are going on, say all you have to say, clear yourself of unwanted baggage (emotional and physical), be clear and light. Unlike most prisoners we have time to prepare.

Keep a bag packed ready for prison/court: defence papers, clothes, letter writing materials and stamps, photos (you are not allowed a picture with yourself in it - in case you use it to escape!), books (you are usually allowed 6 in your cell at any one time - you can usually get extra books allowed in for study purposes), battery operated tape and radio etc. You are not allowed much in the way of possessions - a simple rule of thumb is that you have to be able to carry it by yourself in one journey in plastic bags! Teaches you how to do a lot with a little. And remember that the rules of the prison game are that the rules can change at any time and suddenly you may not be allowed to take in anything!

Remember you are not alone. There will be many people supporting you outside. And those inside can also support other prisoners. Perhaps doing the Amnesty International urgent action letter writing to other prisoners will help build solidarity.

Try to prepare beforehand, the law books and documentation that you may need to be sent into



you in prison, so it is easily accessible for friends or lawyers to send or bring in. Prison library law books are not brilliant.

7.8.2 Useful Prison Addresses

Cornton Vale Prison Support, Stirling CND and others near to Cornton Vale are supporting all women prisoners at this, the only all-female prison in Scotland. Helene on 01259-452458 co-ordinates this support by helping to arrange newspapers, visits and generally keeping an eye on everyone inside.

H.M.Inspectorate of Prisons for Scotland, Chief Inspector Clive Fairweather, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD. Tel: 0131-244-8481. Fax: 0131-244-8446.

HMP Bedford, St Loyes St, Bedford MK40 1HG.

HMP Brockhill Prison, Redditch, Worcestershire, B97 6RD.

HMP Greenock, Gateside, PA16 9AH. Tel: - 01475-787801.

HMP Holloway, Parkhurst Road, Holloway, London N7 ONU.

HM Institution Cornton Vale, Cornton Road, Stirling, FK9 5NY. Tel: 01786-832591. Fax: 01786-833597.

HMP Preston, 2 Ribbleton Lane, Preston, PR1 5AB.

HMP Risley, 617 Warrington Rd, Risley, Warrington, WA3 6BP.

National Prisoner's Movement, BM-PROP, London WC1N 3XX. Tel: 0181-5423744. This organisation provides legal and medical back-up in case of complaints about prison treatment.

Prison Ombudsman for Scotland, Prison Complaints Commission, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD.

Prison Reform Trust, 15 Northburgh St, London, EC1V 0AH. Tel: 0171-2515070. This is a national charity which campaigns for better conditions in prison. It is able to deal with enquiries about various aspects of imprisonment and complaints about

treatment of individuals in prison.

Vegan Prisoners Support Group, PO Box 194, Enfield, Middlesex, EN1 3HD. They provide really good nutritional information for vegans in prison.

Women in Prison, Aberdeen Studios, 22 Highbury Grove, London N5 2EA. Tel: 0171-2265879. As an ex-prisoner organisation they campaign specifically on the issue of female imprisonment.

7.8.3 Some Reflections on Prison Life

PRISON by Stephen Hancock

On March 21st 1990, Mike Hutchinson and I disarmed an F-111 nuclear-capable fighter-bomber at what was then USAF Upper Heyford, Oxfordshire. We had spent ten months preparing for this action. We received two sentences each - six and fifteen months to be served concurrently. This was much less than we had expected. We were led down to the cells in a relatively happy state. Under the old complicated equations that determine the length of time you actually serve, Mike and I only spent six months in prison.

In advance of prison I would recommend several things:

- Without unnecessarily jeopardising any security arrangements you and your affinity group have agreed upon, talk to the most important people in your life about it. Take their views and feelings into account. This doesn't mean that there won't be showdowns and splits between you and family or friends, but it will responsibly recognise that they are going to be doing prison time too.
- List all your fears - from the minuscule to the major. Go through them with someone else. If possible, come up with things you can do about them. If not, at least acknowledge them. It's the first step in a disarmament process. If you can, role-play some of your trickier fears. Get a rough idea of how you're going to relate to other prisoners and the prison officers.
- Draw up a possible prison routine. Imagine what you'd do if you were locked up by yourself all day. Imagine what you'd do if you were sharing a cell with others.
- Organise at least one good prison supporter - someone who is reliable, realistic, organised. Make sure they know what they're letting themselves in for. You will need them for money, stamps, support, visit co-ordination, mailing out personal newsletters, sending in favourite cassettes etc.
- Read other prisoners' writings. If possible, talk to other ex-prisoners and prison-supporters.
- Get hold of the Prison Reform Trust prison guide.
- Tidy up your life enough - cancel the papers etc.

- Do one or two especially nice things which you can look back on when you're finally inside.
- Decide on your level of co-operation in prison. Be prepared to be flexible about it.
- Research thoroughly how it might affect your career and finances.
- If in serious doubt (as opposed to understandably ambivalent), don't risk it - there's always another time.

Every one handles prison differently. These are some of the things I think helped me:

- Writing a diary - never ignoring it for more than three days.
- Being fairly quiet at the beginning of my sentence - within a couple of months, people were fairly interested in who I was.
- Looking out for toes - not stepping on them.
- Reading novels.
- Receiving chatty, colourful, loving letters.
- Remembering to go easy on myself.
- Doing sport and evening classes and stuff.
- Not really engaging with any of the prison officers.
- Having a specific support person on the outside.
- Writing to other friends in prison.
- Getting little presents - music cassettes, a pair of shoes.
- Learning to take afternoon naps - conserving my energy.
- Trying not to go to bed before 10.00pm.
- Remembering why I was there.
- Writing political articles.
- Getting good, cheery visits.
- Receiving excellent support from my parents.
- A little bit of yoga.
- Messing around - sometimes like a naughty schoolboy.
- Seeing the other prisoners as if they were neighbours on my street and trying to enjoy them.
- Making one or two reasonable friendships with other prisoners.
- Doing physical work - I took my City & Guilds in bricklaying.
- Remembering people worse off than myself.
- Connecting with pacifist history - the sense of people going before me, of being part of something greater.

Still, it was hard, and I was lucky to receive such a short sentence, to spend time in two fairly relaxed prisons, and to be surrounded by friendly prisoners.

Getting out of prison and the confusion and disorientation that ensued was in some ways more difficult than the time inside. Support drops away, purpose too, and it's easy to feel as if nobody knows what you're going through. This is by no means a universal experience, but I have seen it often enough in others to realise it to be a sort of 'post-ploughshares' depression. Perhaps we should prepare for such a time in a similar way to preparing for prison time. Next time, I will.

A Dane in a Scottish Prison by Ulla Roder

Even if you prepare yourself practically, physically and mentally to go to prison and even with the presence of your friends from the affinity group in there, there are many different new impressions and emotions to deal with in a prison. It is a different culture inside a prison, and I had to deal with the fact that my cultural background, as a Dane, was different from the Scottish.

The first week you get used to the locked doors and all the small daily routines, which is difficult, when you often don't get or understand the normal loud shouting the staff use as communication.

The staff are generally nice but there is a lot of psychological suppression going on. I found it very difficult to deal with the room search and the way some of the other women were treated. In general we were treated all right, but at all times you have no independent control. You cannot expect anything and there is no timing. It is very stressful.

I also tried to suppress my sadness, when I heard someone screaming in the night. It was hard but necessary for me to keep strong myself. There is too much sadness to deal with in prison, and I had to distance myself from it. This was the hardest for me and afterwards it took a long time to get over it, the feeling of being unable to help those young women, some of them still teenagers.

But after the first week I adjusted slowly and found out who was best person to ask for something, or whose reply I could understand. I learned that the only way to manage in a prison is to keep asking for every little thing, to have a lot of patience and fill in complaint forms again and again until I sometimes managed to get what I asked for. Sometimes I felt it very frustrating to write these forms without starting an argument with the staff, which I considered as a waste of good energy mostly.

Now and then I talked with the other prisoners. Most of the young girls in there speak a form of Scottish language that is almost impossible to interpret. I especially came to know and liked to talk to two South African women. I shared the cell with one of them for nearly a month. A Spanish woman tried to teach me Spanish and I tried to teach her English. A deaf girl and I wrote notes when we met outside. Two women of my own age came around to visit me in the cell now and then. Sometimes we were allowed to be locked up in the same cell for a couple of hours and it was nice with company, because Ellen, Angie

and I were not allowed to stay all of us in one cell together. We could only talk together outside.

At lot of the time in there I was preparing my case, writing letters, articles for newspapers at home and reading different books and newspapers sent to me from Denmark, meditating or just reflecting.

I went to the gym, which was a relief. I am used to exercising a lot and suddenly only having an hour a day makes you very restless. After a while you adjust, but the result was, that when I came out I really had to start all over to get fit again. The art classes were a quite relaxing time where you could nearly forget where you were.

At the end of our four and-a-half month stay in Cornton Vale we all took part in a multicultural group and discussed the different special problems we had. For example some had problems phoning abroad using the £2 phone cards available in the shop or getting airmail letters or stamps for Europe. There was a need for people to visit those foreigners who had no one to visit them, and there was some arrangement for that. This did not count for me. Luckily I got a visit every day from the most wonderful people you can imagine. A good normal talk and vibrations from outside make you feel good. They were also very supportive doing a lot of other task like bringing things from outside, contacting the prison, when I was refused a doctor and lots more. They just listened to me on the days when I needed to get rid of bad impressions.

That may sound depressing, but we had also good times in there. One week in company with Helen John is quite amusing and inspiring. It was summer and many hours were spent talking together outside in the sunshine and trying to spread some fun and enjoyment among the young women. We also

enjoyed all the flowers and support letters sent to us every day. On Hiroshima day we got white flowers to fill the whole unit.

A weekly Quaker meeting kept us in a good spirit. It gave me peace and I could think of my family at home, who may have suffered more than I. Well, we kept in touch all the time and it helped a lot to be able to speak to them regularly on the phone.

The most positive and important thing that happened to me in these four and-a-half months in Cornton Vale, was learning from Ellen and Angie. Their experience, way of life in all aspects and their huge wisdom and love have been a constant pleasure for me and for a lot of the women in our unit, I am sure.

Part of your personality is suppressed when imprisoned and therefore I felt it very important to keep my mind focused on why we were there. Just be myself and keep my spirit high. At any sign of a sneaking depression I only had to think of the 8th June on board 'Maytime'. I have a clear conscience, knowing that we took a step on the long road to our 'peoples' nuclear disarmament.

Prison thoughts from Peter Lanyon

Go into jail as short of sleep as you can manage. It's going to be so boring that you may as well snore away some unfamiliar hours to start with. And when you find you've been able to sleep and you've not missed anything important, that's quite a good introduction. Everything is going to be taken care of; you will be treated like a child anyway. Indeed, after a week in Greenock, it occurred to me that the screws were essentially like rather harassed school teachers; capable of being mean if provoked perhaps, but essentially there for us prisoners' welfare.

"There are thousands who are in opinion opposed to slavery and to the war, who yet in effect do nothing to put an end to them; who, esteeming themselves children of Washington and Franklin, sit down with their hands in their pockets, and say they know not what to do, and do nothing; who even postpone the question of freedom to the question of free-trade, and quietly read the prices-current along with the latest advices from Mexico... What is the price-current of an honest man and a patriot today? They hesitate, and they regret, and sometimes they petition; but they do nothing in earnest and with effect. They will wait, well disposed, for others to remedy the evil, that they may no longer have it to regret... Oh for a man who is a man, and... has a bone in his body which you cannot pass your hand through! ..."

Under a government that imprisons any unjustly, the true place for a just man is also a prison. The proper place today, the only place which Massachusetts has provided for her freer and less desponding spirits, is in her prisons... It is there that the fugitive slave, and the Mexican prisoner on parole, and the Indian come to plead the wrongs of his race, should find them; on that separate, but more free and honourable ground, where the State places those who are not with her but against her, - the only house in a slave-state in which a free man can abide with honour. If any think that their influence would be lost there, and their voices no longer afflict the ear of the State... they do not know by how much truth is stronger than error, nor how much more eloquently and effectively he can combat injustice who has experienced a little in his own person ..."

Henry Thoreau, 'On the Duty of Civil Disobedience', 1849.

Amongst other things, they'll be forever trying to make sure that you're not about to top yourself; you'll get used to that pop-hole flapping.

In the UK, one goes to prison *as* a punishment, not *for* punishment. Being there *is* the punishment. So there is no good reason for it to be any more unpleasant than it has to be. Ask, ask and ask again, patiently and evenly, for anything that might make things more pleasant. Nothing you want is likely to happen at once, but it won't happen at all if you don't ask. And thoroughly enjoy anything and everything you can - like, for me, the endless hot water in the showers.

The secret thing I was more worried about than anything else (so worried that I hadn't been able to share it with my affinity group!) was that I might have to use the lavatory in front of a cellmate. When the moment arrived, pretty soon after the door banged shut upon us, I thought to myself "Oh, Shit!" and it happened. It wasn't nearly as bad as I had feared, and I think my companion was grateful to me for breaking the ice. (No, of course it wasn't actually that cold!)

He had a valuable resource. He came in to prison with as much tobacco stored about his person as he thought the authorities would tolerate. So, whatever else our fellow-prisoners thought of us they were benignly disposed towards us as a soft touch for baccy.

At many prisons, I believe, it is supposed to be easier to get things sent in to you during the first week you are there. After that, various regulations make it more difficult, so try to take advantage of that opportunity. Be prepared, however, for your carefully packed prison bags to fail to meet up with you. You are, after all, supposed to be able to exist without them. If they contain papers for an imminent court case, you may have to make a fuss, and don't hold back from making one if necessary; but, for the rest, they'll be fun when they do eventually arrive.

After a day or two inside, I began to sense the almost total lack of responsibility left to me for managing my everyday affairs. Cautiously, I relaxed and started to enjoy this. Normally I live in such hectic 'busy'ness that I'm habitually tense about it, and I certainly had been about the events that had led us to prison. In some senses being inside was, instead, a glorious holiday (- which it certainly wasn't for our supporters, struggling to get our bags to us!) This letting go and letting prison happen seemed to me another thing thoroughly to enjoy. In the longer term, clearly, one needs quietly to box one's compass and develop a direction and purpose, but, initially, a little indigent serenity was very comforting. They've put me in here. Let them sweat!

I had often thought to myself that a long spell in prison wouldn't be so bad for me because I had been through it all for ten years at boarding school from the age of eight. In one sense that may be correct: I may be able to marshal again the defences that I

built then. But a grave difference exists. Then, the separation was inexorable and imposed upon me, and I could weep and curse about it as much as I wished. Going to jail voluntarily as an adult, on the other hand, is something that places an enormous burden upon not only us but those, too, who have every right to expect us to be outside with them instead. It is something that, however carefully we prepare them and us for, will cause stresses and rows. Be ready for this; it may be quite the worst part of it all and we have a duty to see it through.

Something perhaps worth mentioning is the enormous difference I felt being inside for a peace action, and not for anything else. It so blessedly lacked the shame and disgrace and the abject realisation of having messed up, that I have felt when locked up on other occasions in my life. Similarly I can imagine we all must have and will surely need private thoughts - mantras, prayers, jokes, songs - to bear us up in prison when things are not going well. That is why we must make sure that we prepare very carefully for prison, so that we take those resources in with us, in good shape.

Remember Henry David Thoreau, in jail for refusing to pay war taxes, being visited by his friend Emerson. When Emerson exclaimed. "What on earth are you doing in there?", Thoreau replied, "What on earth are you doing out there?" That's a pretty smart answer. Yet Thoreau loved his freedom and the tranquillity of the countryside so much that he lived for a year by himself in the New England woods, beside a lake in a little hut he had made. It must have cost him a great deal to be banged up. It costs us - all of us; and we must look after each other so we can bear that cost.

One thing about supporting each other: delay is the very devil. On top of the unfamiliar administrative channels of the prison system and the personally intricate requests that will bedevil the prison supporter, there are now severe cracks in the postal service, upon which so much prison communication must rely. In addition, both into and out of prison there will be delays as mail is searched for drugs and, sadly, things do sometimes go astray or get badly hung up at those points. Supporters should always tell their prisoner, in a separate letter, when things have been sent in, so the prisoner can check that they come through and ask in the prison if they don't. But there is nearly always going to be more of a delay than one will expect. And this can easily lead to resentment in the isolated prisoner and guilt in the overworked supporter - a flammable mixture which is all too likely to ignite sooner or later. Warn each other of it, and love each other more when it happens in spite of that.

Preparing to Defend Yourself in Court Whilst in Prison by Angie Zelter

I have had two experiences of preparing quite detailed legal defences from inside prison. Once, when I was in Risley, England for six months after being part of the 'Seeds of Hope Ploughshares' action

which disarmed a British Aerospace Hawk jet, and second, when I was in Cornton Vale, Scotland for five months after disarming 'Maytime', a Trident-related research vessel in Loch Goil, as part of Trident Ploughshares.

All in all I enjoyed preparing my defences as it gave me something constructive to do in prison even though it was at times very frustrating. After the relative ease on the outside of phoning, faxing, photo-copying, access to the web-site etc, I had to learn to rely on others and to expect delays of several weeks before I received information that might only take hours or days to get normally. The other frustration is the cell searches by the prison staff - which can leave all your papers disordered and sometimes damaged. This was one of the reasons that I often sent out drafts of my defence so that if it got lost in the prison system someone on the outside would at least have a copy so I would not have to begin all over again. I also got in the habit of writing a chronological detailed account of what I had asked for, when and from whom, and then noted when it arrived. This was so I could check 'security' was not holding things up. It is a good idea to keep copies of all the letters you send and receive to various officials and the courts as well as copies of all the complaint forms you may make out. It is amazing how the staff 'lose' things and then you have no proof of what you have done. As you can see one can be just as bureaucratic inside as outside! By the time I left Cornton Vale I had two large boxes of legal papers plus my other possessions and there were dark mutterings from some of the staff who did not approve at all.

Both times I was able to prepare a detailed legal defence with copies of all references and cases cited and to present it in typed form with the help of a computer. Getting access to a laptop and printer in Risley took me 4 months of hard campaigning inside the prison and help on the outside to get computer and printer into the prison. Apparently only men up to that time had demanded and got access to computers on a personal basis like this before and it was hard to break through to a new practice. But as with everything in prison, time and patience, never giving up and continual filling out of complaint forms worked eventually. But in Cornton Vale, with this experience behind me and with a more helpful prison staff, it took only a couple of weeks to get access to a laptop in my cell during the daytime. Now that these precedents have been set it should not be too difficult to persuade any prison authorities in the UK to do similarly. I certainly found it really valuable to have a computer to prepare my defence as I can hardly read my own writing and few others can. It meant that I could then send out drafts and get advice and help from others and it also meant that I could hand-in a copy of what I was saying to the court. It also proved useful for the support and media team to have typed copies.



On both occasions one or more of the other defendants (1 out of 4 in the Hawk action and 2 out of 3 in the Loch Goil action) were represented which is always a help. Apart from ensuring that the legal procedures are being kept to and the foundation is laid for any possible appeals in the future it also gives the unrepresented parties access to legal expertise and help. I would always recommend a joint partnership between activists representing themselves and those being represented, as long as a consensus based approach is agreed upon from the start. Some lawyers find it too difficult to work with such a team-approach but I have been lucky in both instances. Lawyers have a right to as many legal visits as they need and this can be a very useful way of getting in your legal papers, references and files. If you ever find yourself in prison alone and want to represent yourself in court you could still opt for legal representation right up to the moment you appear in Court.

Before the action - I packed all the papers, reference books, copies of letters and evidence that I thought might be useful to me in preparing my defence whilst being careful to keep it to a minimum. The cells are small and the prison authorities hate there being too much paperwork. I found that I had learnt a great deal from my first experience and was much better prepared when I went into Cornton Vale. I found that the library service at both institutions were abysmal. There were few law books and in any case whilst I was at Cornton Vale I was never allowed into the library. Remand prisoners could not be trusted with the books apparently!

So, I put everything into a labelled box with an itemised copy of all the contents with them and spare copies of this list for my support group. I also kept a copy of this list with the books and clothes that I had ready packed for the first reception visit I would get. I asked one specific person in my support group to be responsible for getting this box into me

as 'legal papers'. There is a legal right to have your legal papers sent in and technically there is no limit to papers that are genuinely needed for your defence. I had no problem getting these first items brought in. My supporter rang and checked first with the prison authorities and I had to request them formally and after a week or two they were in and I could start work. I had also had the forethought to pack in with them useful things like blank A4 paper (for printing out), blank notebooks, plastic wallets and cardboard files to enable me to file the papers. In a small cell having the aid of some files is really useful.

Joint-consultations - my co-defendants in both actions were all female - which made joint consultation so much easier as we were all in the same prison and often on the same unit. We argued that we all (unrepresented as well as represented) needed to have joint consultations with our lawyers so that we could work out a joint approach to save ourselves and the court time (so that our arguments did not become too repetitious and also so that we could share some expert witnesses). In Risley this was essential as we were often locked up in single cells for 23 hours a day and without these joint consultation times would never have been able to prepare such an effective defence, where we all concentrated on a different angle. It is best to encourage everyone involved to start work as soon as possible so there is time to fine-tune your arguments and to allow time for the inevitable delays.

Outside legal support - whilst in Cornton Vale I also had the help of a couple of people who specifically used their visits to help me with my legal queries and who also did much of the photo-copying that I needed. In fact eventually I asked the prison to allow these as 'legal visits' as I was unrepresented but needed legal advice from non-lawyers. A kind of compromise was reached whereby I was allowed to have a 'closed' visit at the ordinary visiting time and where I could take notes (notes are not allowed to be taken in an ordinary visit - though I am still fighting against this rule as I think it is unreasonable) and where any papers that we wanted to swap could be security checked and then allowed in and out fairly easily. In other words I would usually get the items the next day. I relied extensively on these people to help organise the witness statements and attendance of expert witnesses as access to the phone was difficult from inside. But I was able to do much of the letter writing from inside.

The people who helped me with legal support whilst in prison continued this help whilst we went through the 4 week trial. This was really helpful as I then had a Mackenzie Friend to help me and to keep notes during our trial. They also helped get the expert witnesses sorted out and their expert testimony in to the Court on time, provided useful things like more paper and pencils, and were wonderful. I felt the love, support and care of very many people as well as feeling the solidarity and power of the peace

movement very forcefully and maybe that was why, both times, we were acquitted.

For a detailed critical report on my experiences in general at Cornton Vale please see the web-site where there are two reports and an exchange of letters between myself and the Governor. I am also happy to share my prison experiences directly with anyone who might be facing a long term in prison and can be reached on 01263-512049.

7.9 Glossary of Legal Terms

Some Latin terms and maxims found in Scots Law

Actus non facit reum, nisi mens rea - an act does not infer criminality unless the actor had criminal intent or criminal negligence. This maxim is usually now simply expressed in references to mens rea.

Actus reus - the physical act or conduct prohibited in a crime or offence.

Ad vindictam publicam - for the maintenance and defence of public interest; the particular concern of the Lord Advocate and procurators fiscal as public prosecutors.

Amicus curiae - a friend of the court; one who argues at the request or with the leave of the court for an unrepresented party or in the public interest.

Audi alteram partem - hear the other side: the rule of natural justice that no decision should be reached by a court or tribunal until all parties have been given an opportunity to be heard.

Bona fide - in good faith, acting honestly, even if negligently or mistakenly, but not fraudulently or dishonestly.

Bona fides - good faith.

Consuetudo pro lege servatur - custom is observed as law. All Scots law, except legislation, is ultimately customary or common law.

Corpus delicti - the substance or body of facts constituting a crime or offence.

De facto - in fact; existing as an objective fact, albeit not necessarily based on any rule of law.

De iure - as a matter of law or in point of law.

De novo - anew, afresh;

De plano - immediately, summarily, without further formality.

De presenti - now, at the present time.

De recenti - recent.

Ex post facto - from what is done afterwards; retrospective.

Ex proprio motu - of his own volition; of his own accord: describes a decision made by a judge without his being requested by a party to take that course.

Flagrante delicto or **flagrante crimine** - in the act of committing a wrong or crime. Thus a criminal may

be caught in flagrante delicto.

Forum - a court or tribunal appropriate for the exercise of jurisdiction for a particular purpose.

Habile - admissible; valid; competent for legal purpose.

In camera - in chambers; describes proceedings held in the judge's room, and thus in private.

In causa - in the case or process.

In limine - on the threshold - a proposition stated at the outset of a legal argument or litigation.

Intra vires - within the power. Describes an act which is within the power or authority of the person who does it. Cf. ultra vires.

Ipsa facto - by the fact itself.

Ipsa iure - by the operation of the law.

ius - right, law, or justice.

ius ad bellum - just cause for war; sufficient reason to have recourse to war.

ius in bello - justice or right conduct during the waging of a war.

ius cogens - a statutory or contractual provision stipulating a mandatory legal consequence. A law from which there is no derogation. Cf. ius depositivum.

ius depositivum - a statutory or contractual provision the stipulated consequences of which may be averted by agreement between the parties concerned.

ius gentium - the law of nations; international law.

iusto tempore - in due time; at the right time.

Locus - the place.

Locus delicti - the place where a crime was committed.

Modus - manner or method.

Modus operandi - the method of operation.

Mutatis mutandis - changing that which has to be changed; making the necessary alterations.

Nemo praesumitur malus - no one is presumed to be bad. This maxim embodies the principle of the presumption of innocence.

Nobile officium - the noble office or power. The High Court of Justiciary or the Court of Sessions may use this ultimate equitable power, as distinct from its officium ordinarium, within strict limits to modify the rigorous application of the common law, or to give proper relief in a situation for which the law has made no provision.

Nomen iuris - legal term; any word or phrase having a particular technical meaning.

Non obstante - notwithstanding; not opposing.

Ope et consilio - by aid and counsel; aiding and abetting; art and part.

Pro loco et tempore - for the place and time. Thus a prosecutor may desert criminal proceedings pro loco et tempore, while reserving the right to renew the prosecution at a later date.

Qua - as in the character of.

Qui tacet consentire videtur - he who does not object is held as consenting. Silence means consent.

Quoad - as regards.

Reus - the defender, sometimes called alterior, contrasting with actor, the pursuer.

Simul et semel - at one and the same time.

Sine die - indefinitely; without a day being fixed eg. for the resumption of adjourned proceedings.

Solo animo - by mere intention or design. The law takes no cognisance of intent until it leads to some overt act. Thus an intention to steal is not criminal until it becomes at least an attempt.

Species facti - the particular nature of the thing done; the precise circumstances attending any alleged crime or civil wrong.

Ultra vires - beyond the powers; the opposite of intra vires. The term is used especially in the context of delegated legislation, and the activities of central and local government, trustees and companies.

Ut supra - as above.

Versans in illicito - engaged in some unlawful occupation; performing an illegal act.

Vide infra - see below;

Vide supra - see above.

Videlicet - namely, usually abbreviated as "viz"

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