

Legal Briefing: for actions at Aldermaston & Burghfield.

This is a short guide for anyone thinking about taking nonviolent direct action at AWE Aldermaston or Burghfield.

It summarises:

- Laws and byelaws which apply to specifically to the sites;
- Common offences you may be arrested for;
- Police powers of Stop and Search;
- Some information about the arrest process.

This is not a legal document.

If you need legal advice, please ask a lawyer.

LAWS AND BYELAWS Military Lands Byelaws

Re-introduced in 2007, the Aldermaston byelaws prohibit a number of activities on the "Controlled Area", which extends just outside the perimeter fence (marked by Ministry of Defence bollards). The MoD police may arrest people blockading the entrances to AWE for: "obstructing a lawful user or any other person acting in the proper exercise of his duty". Thirteen people have been charged under the byelaws, and two convicted. Court proceedings were stopped against ten women charged under the byelaws; in another case the charge was changed to "Obstruction of the Highway";

Serious Organised Crime and Police Act 2005, Section 128 (SOCPA)

"Protected" areas inside Aldermaston are covered under the S.128 of SOCPA (introduced under the Terrorism Act 2006). It is an offence to "enter or be on" the site "as a trespasser". This applies to most land INSIDE the fence (excluding access to the Recreation Society football fields, theatre etc). The maximum penalty is 51 weeks imprisonment and or a £5,000 fine. A woman arrested inside the perimeter fence at Aldermaston in March 2007 had her case dismissed on the grounds that s.128 SOCPA applies only to the Nuclear Licensed Site, not the entire space within the perimeter fence. The boundaries of the Nuclear Licensed Site are clearly shown with multiple signs attached to the inner fence.

COMMON OFFENCES

Obstruction of the Highway

If you stand, sit or lock-on in a public road (or in a gateway leading to a public road) you will be arrested for obstruction of the highway. The police may first warn you that they will arrest you unless you move. They might remove you without arresting you. If you do not move or you are moved and return to the road, you will be arrested. Although the maximum fine is £1,000, most people are fined between £50 and £250, plus court costs (between £30 and £250).

Obstruction of a Police Officer

Under s.51 of the Police Act 1964 it is an offence to resist or wilfully obstruct a constable in the execution of his/her duty. Wilful obstruction means doing any act which makes it more difficult for the officer to carry out his/her lawful duty e.g. ignoring their instructions, stopping them doing something, harassing someone, giving a false name and/or address. Maximum: one month's imprisonment or a fine of £1,000

Section 14, Crime and Public Order Act, 1986

Under s.14 a senior police officer can impose conditions on a public assembly if they consider it is "likely to result in serious public disorder, serious damage to property or serious disruption to the life of the community".

The police have attempted to prevent pre-advertised blockades and other events at Aldermaston under s.14 by ordering people to a "designated protest area" (for example, the main gate car park). They may try to issue you with a notice. It is an offence not to obey a s.14 order (for example, by refusing to go to the designated area or by leaving a designated area). Maximum penalties have not yet been imposed, but can be up to £1,000 for participants or £2,500 for organisers of such an "unlawful assembly".

Section 12, Crime and Public Order Act, 1986

S.12 places similar limitations on processions as s.14 does on assemblies. The police should produce an order specifying the restrictions, stating where you may "process" or march. Penalties as above.

OTHER OFFENCES:

Breach of the Peace

In order to "breach the peace" violence or the threat of violence must be offered. In practice BoP is used to prevent peaceful demonstrations. You can be arrested and bound over to keep the peace. If you refuse, you may be detained or imprisoned indefinitely until you agree to keep the peace.

Aggravated Trespass, Section 68, Criminal Justice & Public Order Act 1994

If you are on Ministry of Defence land you could be arrested under s.68 for "trespass[ing] on land with the intent to disrupt or obstruct or intimidate someone going about a lawful activity on that land (or adjoining land)".

Under s.69 of the same act, you can be warned to leave the land if the senior police officer present "reasonably believes" that a s.68 offence has/is/will be committed. Maximum penalty: three months' imprisonment or £2,500 fine or both. Not used at Aldermaston since introduction of SOCPA/byelaws.

Section 5, Crime and Public Order Act, 1986

Disorderly conduct: This offence involves causing "alarm, distress or harassment" to a reasonable person (which may include a police officer) by using threatening, abusive or insulting words or behaviour. This can apply to words on placards or T-shirts. Maximum fine: £1,000 (rarely imposed).

Criminal Damage

Includes cutting the fence, use paint for graffiti or otherwise damaging MoD property.. Cases with damage valued under £5,000 are tried in a magistrates court; if damage is over £5,000, or if you are charged with going equipped to cause criminal damage, you can choose to be tried by a jury in the Crown Court. Penalties include a fine, which reflects the value of the damage, plus a compensation order for damage, plus court costs; or prison sentence in some cases.

STOP AND SEARCH

The MoD police often stop you "just for a chat". They will ask for your details.. **You do not have to give them your name address or anything else.** Ask them to give you a "Stop and Account Form" to explain why they have stopped you.

The MoD and Thames Valley police can search you if they have reasonable grounds to suspect you of a serious offence. They can search you under **s 60, Criminal Justice & Public Order Act** for offensive weapons, or under **s.1, Police & Criminal Evidence Act** for articles connected with criminal damage, burglary etc.

During prepublicised actions the police may also conduct "blanket searches" for offensive weapons etc, without any grounds ,if there is a **s.60 Order** in force in the area. They can and search you for "articles associated with terrorism" if there is an order in force under **s.44 Terrorism Act 2000**.

In all cases **you do not have to provide your name, address or any other personal details, unless you are the driver of a vehicle which is being searched. You have the right to be given a written record of any search: ask for a copy.** You may be arrested if you refuse to be searched. Women have the right to be searched by a female officer.

BEING ARRESTED

The police should inform you that you are being arrested, and what you are being arrested for. If they don't, ask them. After arrest you may be searched (pat down) before you are placed in a police van. You will then be taken to a Thames Valley Police (TVP) station, either in Newbury or Reading (Loddon Valley) or if there are mass arrests, elsewhere in the TVP region. Don't worry, stay calm; stay non-violent. Detention is boring; take a book or catch up on sleep.

You will eventually be taken before the custody sergeant, who will ask you to give to give a verifiable name and address. If you refuse to give a name, you may not be released. You do not have to give your date of birth.

BASIC DETENTION RIGHTS:

The custody sergeant will advise you of your rights:

To have someone informed of your arrest. Ask the police to ring your groups' legal supporter or a friend

To receive legal advice:

For non-imprisonable offences (for example, obstruction of the highway) you do not have the right to legal advice from a solicitor, but can speak on the phone to a "legal adviser" provided by Criminal Defence Services Direct.

If you have been arrested for a serious offence, or if the police want to interview you, you have a right to speak to a solicitor of your choice free of charge, provided they can be contacted within two hours (otherwise you'll be allocated a duty solicitor).

To see a copy of the police Codes of Practice.

You also have the following rights, but they may not tell you:

The right to remain silent

The right to see a police or independent doctor, if you are ill or injured; you may also take prescribed medication;

If you are not a UK national, you can ask for an interpreter;

;If you are 17 or under, you must be interviewed in the presence of a parent, legal guardian or other appropriate adult.

WHAT ELSE HAPPENS?

You will be searched (you have the right to be searched by a same-sex officer), your property bagged, listed and taken away. They normally let you keep a book.

You will then be placed in a cell for between six and 12 hours;

if they want to detain you for more than 24 hours they have to apply to a magistrate. You have the right to hot drinks and meals. They may interview you.

INTERVIEWS: You have the right to remain silent

The police will try always and get information from you so watch out for "friendly chats". They may sometimes record a taped interview to gather evidence (and other information). You have the right to silence, and do not have to answer any questions. You can reply "NO COMMENT" to any questions. THERE IS NO LEGAL OBLIGATION TO REPLY, although the police will tell you this may be viewed negatively by the court. Anything you say will be included in the evidence presented in court. If you make a statement, please talk only about yourself and your own action, not about other people.

"Fishing interviews"

You may be "invited" to an informal interview with the MoD CID which they use to "fish" for intelligence about you, other people, organisers etc. They have no legal basis to interview; we strongly advise you not to talk to them.

BEFORE RELEASE

Fingerprints, DNA and photographs

Before release, the police will take your fingerprints, a DNA sample (saliva or hair) and photograph. They have the powers to use "reasonable force" if you refuse.

You will then be taken back to the custody sergeant.

Cautions

If this is your first arrest, you may be offered a caution and released without charge. You will not go to court or pay a fine but it is an admission of the offence and it will go on your record. You do not have to accept a caution, in which you case who may be charged.

Bail & Police Bail

If you are charged with an offence, the custody sergeant will give you some paperwork listing the charge/s against you and the date on which you must attend court. You will almost certainly be given bail conditions and released on bail until your first court hearing. Bail conditions usually prohibit you from going back to Aldermaston and the surrounding area. Ask for a map.

If you don't want to accept these bail conditions, ask for a lawyer; you may be held overnight to challenge them in court. *Police Bail:* you may be bailed (but not charged) to report to the police station up to 12 weeks later while the evidence against you is sent to the Crown Prosecution Service who decide whether you will be charged. Relatively few people have been charged after answering police bail.

GOING TO COURT

You are very likely to be convicted unless the police drop the charges Reading and Newbury Magistrates courts have spent over 25 years convicting Greenham and Aldermaston women and other protestors at Aldermaston and Burghfield.

The first hearing will be set for a week or two after arrest

If you **plead guilty** at the first hearing magistrates will impose a lower fine and costs than if you plead not guilty.

If you plead **not guilty** the court will set a date for trial, sometime within the next few months, and you will be bailed by the court until that date.

Please contact us if you need further information.

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