

**POSITIVE IMAGES,  
EVIDENCE,  
PUBLIC ORDER  
& RESTRICTIONS.**

**FINAL SEMINAR PAPER**

**JANUARY 1993**

**TUTOR: Dr. PHIL STOKES**

**ALAN LODGE**

**PHOTOGRAPHY BA(Hons)**

**NOTTINGHAM TRENT UNIVERSITY**

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# A. INTRODUCTION

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**To begin with, I feel it relevant to tell you something of my background in photography and how I come to be here in the first place.**

I started taking pictures, at the end of the 70's. I wanted to communicate something of what it was like to be a young "Traveller", and rootless. Because I was one.

Years earlier, I had a truck that I had decked-out as a "Mobile home" and lived on the road, travelling around the festivals and fayres for a couple of years. More and more people began to come to such events and while there, many were set an "example" by the new travellers to change their lifestyles from being settled. Travelling, of course provided a sensible alternative to many people who were homeless in the cities.

Because of these increasing numbers, events would spring up in the countryside at short notice with little or no organisation. Welfare agencies began to be formed to help provide services where the local authorities were quite unable or unwilling to. I volunteered to help them and soon realised that I could be more effective with some training. I became an Accident Ambulanceman in London and there I got some experience that I have been applying since.

However, I soon discovered that people not only asked us for help for injuries and illness, people could be equally distressed as a result of their treatment by the Law.

I was a welfare worker with "Release", an organisation concerned with legal rights and advice. I took photographs initially with the mission of attempting to record the way the authorities reacted to a new group of social misfits as they were seen. Some of these photographs enabled people to be successfully defended in court. They showed circumstances that would have been otherwise unavailable. Thus my initial interest in photography was merely a means of gathering evidence.

I began to record more aspects of life on the road. There is no stereotype of a festival goer or traveller that is truly representative and so the project grew to take this into account.

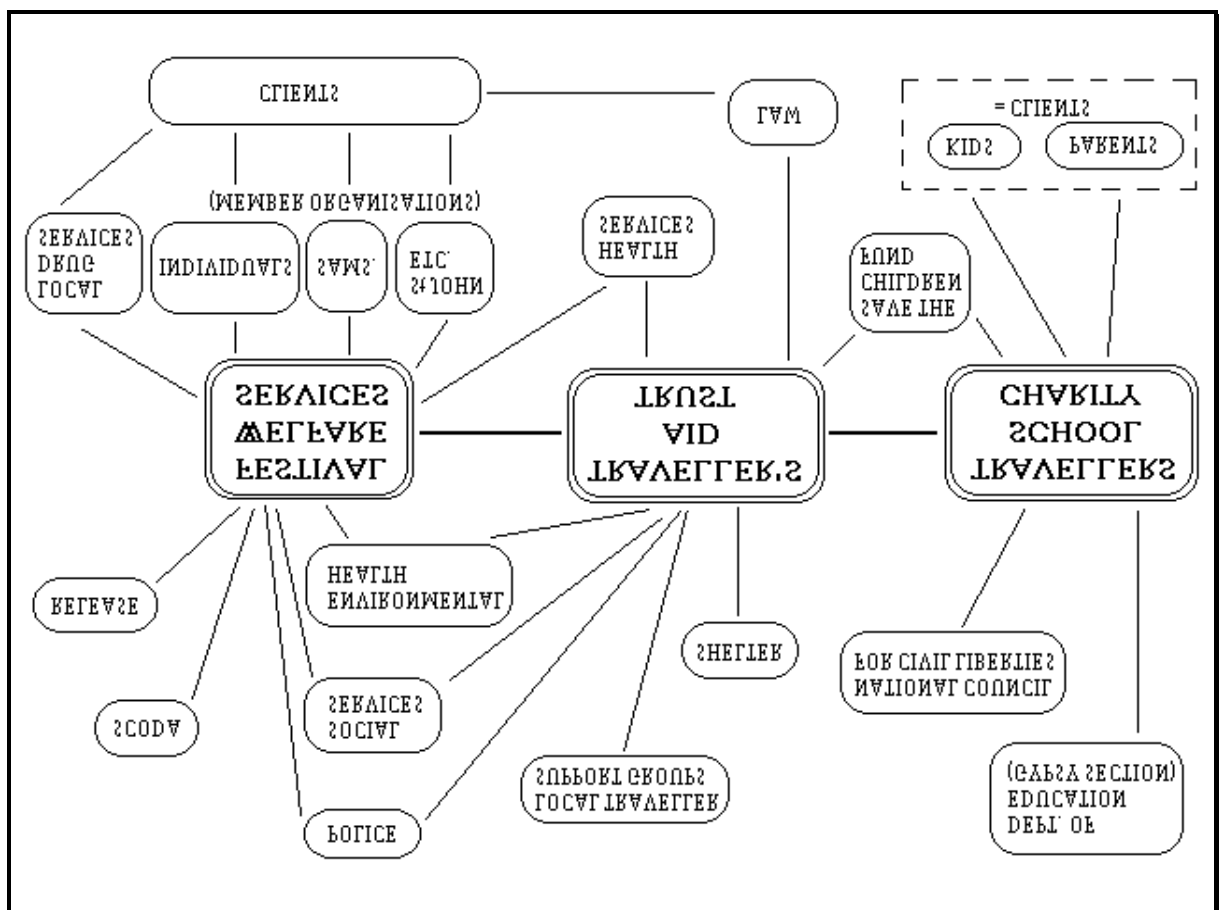
Not very many people were trying to photograph these events at the time, the exception appeared to be the tabloid press intent on rubishing events and the police looking for evidence. Against this background, it was clear that every effort and time should be given to reassure people of my intentions. This was hard to begin with because of many peoples past experiences.

But my purpose was understood and I was welcomed and encouraged.

I was further able to lower suspicions by showing a "slide show", perhaps next to a stage (*slide 1*). Where for the first time, those assembled were able to see the work of one of these "photographer types" who came and went and nobody knew who

they were! The show I did became known to the travellers circuit and seemed appreciated. It also of course exposed a bit of a "double standard" held by some that enjoyed seeing pictures of themselves and friends on home ground, but did not like having their photos taken. Some have still said that "I steal their souls" by taking photographs.

I referred to my involvement with welfare agencies. I have produced a diagram that may help explain these organisations interconnections (*slide 2*).



**Figure 1:** Areas of interest and activities of these charities. (same as slide 2)

I am currently a trustee of two charities, "Festival Welfare Services" (reg no. 277251) and the "Travellers Aid Trust" (reg no. 299463) and am an advisor to "The Travellers' School Charity" (reg no. 327731). As well as being involved with the "hands on" work of these organisations, I have become increasingly involved in their promotion. Both at a fund-raising level (using photography to show funders what is getting done), and to disseminate information and advice through a mobile exhibition, leaflet production and a slide show.

I cannot suggest that my work be seen as objective. I think, on the whole, that I try to present a positive image of my subject. My concern is not just to document poverty and distress, or to point out that some have quite a bad time, it is intended to help balance the prevailing climate in the press. That all the participants are evil people who need urgently `scape-goating'.

I have produced this diagram (*slide 3*) to show a spread of issues that I want to explore more fully. But it seems to me that a lot of what I'm involved in, distil in the final analysis, to concern about land rights.



## **B. PRESENTING A POSITIVE IMAGE.**

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**As I've already mentioned, I don't suppose that I can consider my work as `objective'. It is the product of a view on the world that not many outsiders get to see.**

When they do, it is sometimes through the pages of the tabloid press, in a less than complimentary way. Hardly objective either. Positive stories could be covered more frequently, but this would often conflict with a publications `house style', which sells it.

There is plenty to say at other times, even when there isn't fighting with the police. If there was a genuine interest in portraying this community, then features could be included say on how children are successfully bought up "on the road". How three unemployed youths repaired, renovated and made a mobile home from a 1947 vintage London double-decker bus. Or how a number of new travellers had formed travelling shows and circuses that now do fayres all over Britain, Europe and beyond. Supporting themselves and not being on the dole any more.

These are positive stories. They are true; perhaps interesting. Negative aspects of life can include for example, poor access to health care provision for thousands, being "vigied" (beaten-up and vehicles damaged by local - vigilantes). Having your home wrecked during evictions. These are serious matters that if applied to house

dwellers, I think would make a `splash'. There is however, only the odd feature in the `qualities'.

Because of this then, a few of us got together and started a magazine called Festival Eye to promote alternative ideas (*slides 4 - 9*). Something I still get in trouble for now! More of this latter.

Shelter, the housing aid agency recently produced an issue of their magazine `Roof' devoted largely to travelling issues, homelessness and access to land.

I helped research some of the material and supplied a number of pictures (*slides 10 - 11*).

In a project for college earlier this year, I produced a leaflet designed to promote the Travellers Aid Trust, when I have tried to put into practice, some of the principles learnt (*slides 12 - 14*).

It is obvious then that some thought be given to representation and analysis of what can be considered as `good practice'.

## **(1) SAVE THE CHILDREN FUND GUIDELINES**

The Save the Children Fund have a Gypsy Liaison office, that is concerned with provision of help and services to travellers in this country.

A representative of the S.C.F. sits as an advisor on the committees of Festival Welfare Services, the Travellers Aid Trust and the Travellers School. Their work is concerned with New-Age Travellers as well as more traditional gypsies. They also feel that children can very often best be helped by enabling their parents.

For some time now, I have been taking pictures that these charities have found useful in their promotion.

It is an easy trap to fall in, when taking photographs of people at disadvantage, to reinforce stereotypes. With poverty, race or disability, images which reinforce dependency contribute to discrimination that can deprive people of their rights and identity.

The main thrust of their work is to be involved with projects that help people to help themselves, rather than to be dependent on continual hand-outs.

Because of a shift in attitudes, it is now felt to be 'good practice' to be positive in approach when dealing with their promotion. To show what can be done by people for themselves with assistance, rather than negative images of doom that are supposed to 'pluck the heart-strings'.

The S.C.F. then, have recently published a set of guidelines, intended for use throughout the organisation and by contributing freelancers (*slides 15 - 17*). I summarise them briefly here:

- (1) The dignity of the people with whom Save the Children works, should be preserved. People SCF work with may be seen as helpless recipients of hand-outs. Poverty and dependence are not characteristic of communities.
- (2) Images and text used must be accurate and should avoid stereotypes and cliches. Material selected for its shock value, can trivialise, distort and misrepresent its work.
- (3) People should be represented as active partners in development. Not just recipients of aid.
- (4) Disability takes many forms. Disabled people are an integral part of the community and should be seen this way.
- (5) Ethnic groups, women and disabled people should not be excluded from photos and text that involve them.
- (6) Patronising, sentimental or demeaning material should not be used. Not only factual accuracy is important, but also tone.
- (7) People should be identified as individuals wherever possible. Except if they wish to remain anonymous.
- (8) Elements within text and images should strengthen each other in the proper context.

- (9) Images which caricature or diminish the subject through bad photographic process can cause offence. Images should not be cropped or edited in a way that distorts an accurate situation.
- (10) Where possible, material should accurately convey the diversity of S.C.F's work. Elements of self-help and long-term development should be emphasised.

## **(2) MY OWN AND OTHER EXAMPLES**

I show you a few examples of my attempts at creating a positive image of some of the travelling people and their children. Bearing in mind the Save the Children guidelines, and other advice, I have been able to place some of these images in articles, information packs, and Annual Reports. Many different types of applications (*slides 18 - 53*).

I believe on the whole that they do present a positive image but I know that some can find it quite threatening. Care, should of course, be exercised in making pictures, in having a regard for the intended audience. For we all bring a certain amount of "intellectual baggage" to any interpretation of an image or some writing.

A photograph of a traveller could obviously be shown to be one by including, say, his "bow-top" waggon in the background. Thus minimising the space left for the main subject. However, perhaps you could take a picture of the same person, much closer and perhaps showing greater detail of their activity by including only a little bit of wooden spoked wheel or horse harness. This picture would perhaps be equally

appreciated by a knowledgeable audience on the subject and would also perhaps be a better "single image". It would not however, provide a more general viewing public with very much information on how any particular activity was accomplished and hence, becomes a more limited document.

A prime difficulty that I feel then, in taking an informing photograph of an individual or group is really about the balance of the background content to the subject concerned.

At the recent lecture given by Eammon McCabe at Derby. He said that in his view, if you intend to take a documentary photograph, get the background right and your 50% there. What may be meant by 'right', is perhaps open to some interpretation! So I didn't find this very helpful. I think it obvious that some of the character of people is very often conveyed in their dress, face or activity. But people see these signs in very different ways.

In his paper, "Questioning Documentary" in *Aperture*, Brian Wallis points out that:

"Although documentary photographs insist on their direct relationship to material forms in the real world, they are in fact cultural constructions that "create" reality according to a conventionalized language. Further, that this creation of meaning and reality does not stop with the taking of a photograph, but continues as it is cropped, captioned, ordered, classified, categorized or filed. Each new context reframes its meaning".<sup>1</sup>

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<sup>1</sup> see ref 16 - Brian Wallis, 1988, P/60 - 71

## **JOHN WARBURTON**

I thought it helpful to put my work in some context. John Warburton is a third year photography student at Farnham. He has similar interests to me and is a traveller (*slides 54 - 60*).

One prime difference in him to me is that he is interested, almost exclusively, in dealing with the family unit. Sometimes he suggests others by devices, but he is largely saying something about travelling in small communities. He lives with the people that he mainly photographs and of course, has gained their trust. Another difference is that he photographs exclusively on 2 1/4 square.

Nearly all my work to date has been taken on 35mm equipment. Cost has obviously been a factor but, perhaps, more important is appearance. Medium format gear looks much more awesome and I have seen many people "shrink" from view when one has been pointed at them! Even a lay-man knows that a camera that looks like a "Bronica" say, costs a lot of money. I discovered that when photographing people who were on the whole needy, the less obtrusive the equipment the better.

I am concerned more for showing many more aspects of the lifestyle from say:

'Isn't there a lot of people at a gathering', to, 'how to accomplish some tasks like building a tipi.'

Needless to say, a 35mm camera and a range of lenses allowed a freedom to react quickly to situations as they arose.

## **Vehicle Art**

I thought I would show a couple of slides of work that started me in my own desires of recording the variety of homes people live in (*slides 61 - 65*). The media point to the battered buses and trucks of the convoy, however, closer inspection shows that quite a few have a care for their homes that exceed house-dwellers sometimes.

## C. PUBLIC ORDER

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**Many times now, I have found myself in public order situations with a camera. When police are present in large numbers at an operation, they are no longer trained to take each individual situation on its merits, but to act on orders as a "military unit" (*slide 66*). This means that all reason can be lost and chaos ensue. Invariably, police officers wearing "full kit" do not wear their identification numbers. Either because the flame proof overalls or florescent jackets cover them, or because they simply take them off. When individual officers know that there would be great difficulty in identifying them should cause for complaint arise, their behaviour can be less than perfect.**

Because of this, police have been known to obstruct, assault and arrest photographers on spurious charges to remove them from a scene. I have researched a number of case histories of photographers having a "hard time" from the police. This is becoming far more common and it doesn't seem to matter if you work for a big daily or a freelance. It is so important to gather a "sixth sense". On whether or not to take a photograph, if you'll get away with it and not "loose" your film!

It is, of course, also necessary to have some knowledge of the law, to know if you are within your rights, say on public or private property or situations involving the Official Secret Act. Obstructing the highway, or the police are very broad ranging offenses and are frequently used as threats to remove me from scenes.

## (1) 'BATTLE OF THE BEANFIELD'

Authorities reaction to traveller and festival gatherings was becoming increasingly hostile (*slide 67*). Sometimes police actions took the form of blocking roads or maintaining check-points. Regularly raiding small sites, ostensibly, for stolen property and drugs. Some believe however that such suspicions (frequently not facts), just provided them with a "legal" excuse to smash up peoples homes and thus try to prevent them from continuing to travel and discourage them.

"Stonehenge" and "Travelling" have become much confused with each other in argument. But the Stonehenge Free Festival did provide an important annual focus where people could come together in the summer, not only to have a good time but also to spend time with each other, talking and exchanging news from across the country, (and the rest of the world). The festival became seen by the authorities as a hot-bed of subversion, revolution and anarchy! It was perhaps considered crucial to the planning of other events. An example needed to be made: a legal "nicety" was provided by a High Court Injunction.

On the 1st of June 1985, 19 police forces sent men to assist Wiltshire to control those gathering near the Stones and to "ambush" a convoy of living vehicle containing hundreds of people, including women and children. A pitched battle ensued in which people were not allowed to disperse, but were subjected to violent assault on arrest, and their home damaged or destroyed as a matter of course. This was a "landmark" of British policing that became known as the "Battle of the Beanfield" (*slide 68*). The "doctrine of the use of minimum force" had purposely

been abandoned to frighten the "living daylights" out of anyone else considering the life-style.

I was one of the 530 arrested that day. I had taken many photographs that, with others, provided much evidence of the assault (*slides 69 - 94*). It took the system six years, but 24 people, including myself, brought an action in the high court at Winchester against the police (*slide 95*). It began two weeks after starting this course. In a four month trial, six years after events, the jury relied heavily on photographic and video evidence to support witness statements. Our photography was a little less selective than the police video (with a crucial piece missing!).

In February of this year, we won a large majority of our claims and were awarded £23,500 damages which the Judge promptly took it away again in costs on the last day of the trial!

## **(2) VIOLENCE AGAINST PHOTOGRAPHERS**

Press freedom is becoming much restricted in recent years. There has been a slow increase in case law that create regulations that go unchecked. Again P.A.C.E. is an example. It gives police powers to seek a warrant to enter premises and search for material, including photographs, if they believe:

"the material in question is vital and would help them investigate a serious arrestable offence".<sup>2</sup>

This appears to have been interpreted as anything from treason to actual bodily harm!

One of the intentions of P.A.C.E. was to help the press rather than hinder it. They were originally excluded from such powers by an agreed need to protect confidential sources.

However, since the riots in Hansworth, Brixton and Tottenham, police routinely approach newspapers for both published and un-published photographs for use as evidence. In almost every case, Editors have argued against the orders, but mostly been unsuccessful.

The basis for this opposition is that the media have to be independent observers of events and should not be placed in a position where they can be seen as taking sides.

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<sup>2</sup> Police and Criminal Evidence Act 1984 (S.66)  
Codes of Practice, HMSO

Donald Trelford, the editor of the Observer remarked that:

"The handing over of evidence to the police may result in a short-term gain for Justice in a particular case. But our society would suffer a bigger loss in the long term, if the Press came to be seen as agents of the police".<sup>3</sup>

## **BEN GIBSON.**

Ben Gibson was a photographer for the Observer. At the "Battle of the Beanfield" near Stonehenge, he was photographing events when arrested, shortly after me (*slide 96*). A policeman in full riot kit ordered him to leave the field while he was trying to photograph the violence. He had lost his press card in an earlier incident. Gibson stated towards the road when he saw Nick Davies, a fellow journalist on the Observer, surrounded by a number of police officers with truncheons drawn. He was about to take a photograph of the scene when he was instantly arrested.

He was charged with obstruction and appeared in Salisbury Magistrates Court. The arresting officer said "he wasn't getting in anyone's way. His barrister, Lord Gifford therefore submitted that no obstruction had taken place. Mr. Miller, the stipendiary magistrate agreed and immediately acquitted him. Exceptionally however, (in view of his acquittal) Mr. Miller refused to award cost, stating in his summing-up that:

"a prudent photographer would obey the directions of the police".<sup>4</sup>

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<sup>3</sup> See ref 3 Guardian 18 Nov 1985

Gifford thought that remark,

"was an endorsement of press censorship".<sup>5</sup>

Also, the Observer's picture editor, Tony McGrath observed,

"It's a free democratic country. If a photographer is not impeding the police in any way, or inciting people to riot, the police have no right to ask him to leave. He is recording the event visually for consumption by the people of the United Kingdom who can't actually be present to observe democratic processes of law and order in action. It is convenient for the police to remove the visual media. I can't imagine why they would want to remove any working photographer from a news event unless there were some ulterior motive, some dark reason for not wanting him to be there, like the desire not to have their actions photographed".<sup>6</sup>

## **DAVID HOFFMANN**

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<sup>4</sup> see ref 3 Guardian 18 November 1985

<sup>5</sup> see ref.2 BJP 8 November 1985 P/1256

<sup>6</sup> See ref.2 BJP 8 November 1985 P/1257

David Hoffmann is an freelance photographer based in London with many years experience of public order situations. He says,

"I've been hit on the head with a truncheon and kicked on the ground. I've been thumped, elbowed and kneed. It's a rare public order demonstration where I'm not physically stopped by the police while going about my lawful business as a photographer. It's normal. And what we do is nothing. We step aside, go round the other side, and get the shot from a different angle".<sup>7</sup>

In December 1989, he issued a writ against the Metropolitan Police for malicious prosecution, police assault, false imprisonment and loss of earnings, after public order charges were dropped. His arrest, for obstruction and disorderly conduct, during a demonstration in Westminster against the Salman Rushdie book, followed him accusing a policeman of pushing a camera into his face while he was trying to photograph events. He states,

"that he has enough witnesses and evidence for the case, but hopefully, it can be settled out of court".<sup>8</sup>

## **DAVID ROSE**

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<sup>7</sup> see ref 2 BJP 8 November 1985 P/1260

<sup>8</sup> see ref 23 BJP 21/28 December 1989 P/4

David Rose was at the Tottenham riot when four or five policemen surrounded him. He says,

" they started to jostle and poke me, making jibes about taking pictures of wounded policemen".

According to Rose, one of them said,

"Get him in the back of the van and do the job properly".

Rose noticed a journalist on the other side of the road, and shouted out his name and the paper he was working for, The Guardian!

"That seemed to shock them back into reality. But if I'd been there on spec. or not had someone to whom I could have shouted, I think I would have been in the back of the van".<sup>9</sup>

## **JEREMY NICHOLL**

Jeremy Nicholl was working for the Sunday Times, on assignment in Belfast. He was shot by an RUC plastic bullet from ten yards range. It nearly killed him. A nearby TV crew described the police action as deliberate. He too successfully sued the police with NUJ backing. He says,

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<sup>9</sup> see ref 2 BJP 8 November 1985 P/1256

"If you go to any public order situation now, you take a great chance of being thumped by someone; either by people opposed to the police or the police themselves. It doesn't matter who it is really, when you are on the ground getting your head kicked in. At Tottenham, you couldn't possibly take picture inside the estate. You would have been lucky to get out alive if you'd tried it. So you were working behind police lines most of the time. While I was working there, I was attacked by a policeman who tried to break the flashgun off the camera...the point is, photographers are everybody's favourite target at the moment".

The Wapping dispute, he maintains,

"convinces me that press photographers have become a target for police when public order is at stake".

Nicholl, then working for the Independent, was hit with a police truncheon and some of his equipment destroyed.

"Now, whenever I am sent to cover a public disturbance, I always take extra flash equipment!"<sup>10</sup>

**DON McCULLIN**

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<sup>10</sup> see ref 2 BJP 15 November 1985

Don McCullin's work is known internationally. In this country, working for the Sunday Times, McCullin covered the riots and National Front march in Lewisham, London in 1977. Then and many times since, he has been assaulted.

In view of this, he amazed many when agreeing to provide photographs for the advertising campaign for recruitment to the Metropolitan Police in 1988. All the more surprising then, that while photographing at the poll-tax riot in Trafalgar Square, he was arrested. It wasn't clear why exactly. But, after questioning back at the station, he was released without charge. The police thus removed a world-class photographer from the scene.

### **`SNAPPER'**

The writer `Snapper', comments in the BJP (14 feb'91) on the arrest of Don McCullin at the poll-tax riots in Trafalgar Square. He thinks people will be divided into two camps,

"Those who have `been their themselves and those who would dismiss the incident as an unusual and inexplicable occurrence".

This anonymous photographer says that in his career, he's been assaulted on several occasions,

"My record to date is two assaults by the general public and two by the constabulary....This I take statistically to mean that I have to be more careful of that vicious minority wearing uniforms than I have of the public. I take evasive action accordingly.

**If you want to know the time - buy a watch!"**. <sup>11</sup>

*(slides 97 - 100)*

NUJ Deputy General Secretary Jake Eccleston responded to Ben Gibon's arrest in the Beanfield for obstruction and helps me summarise the case.

"I don't see why photographers should operate from positions where the police want them to operate. I don't think that a photographer who feels the police to be unreasonable in telling him to stop taking pictures should necessarily obey. We're either in a police state, or we're not". <sup>12</sup>

Police may sometimes be justified in ordering press away from the scene in a case of possible explosion or breach of Official Secrets, for example. Mostly however, they obscure unpalatable behaviour.

An arrest for obstruction is frequently used to remove photographs from the scene. A solicitor described the charge as:

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<sup>11</sup> see ref 54 BJP 14 February 1991 P/12

<sup>12</sup> see ref 3 Guardian 18 November 1985

"A catch-all offence which is often used as a means of social control" <sup>13</sup>

Cases can only be heard by a magistrate, not before a jury in the Crown Court. The rate of acquittal is low.

A working photographer now finds that accreditation by an NUJ card is frequently not enough. The Metropolitan Police, for example, issue their own card and will recognise no other. Although this system is now under review.

Freelance photographer are increasingly being sent to cover public order situations without any accreditation.

The NUJ Secretary further thinks Senior Officers should give:

"Firm police instructions from the top to recognise NUJ cards and not impede the press. But this doesn't seem to be the case". <sup>14</sup>

### **(3) IMPLICATIONS OF HIGH COURT ORDERS.**

David Hodge was a freelance photographer who died of injuries he sustained when sent to cover the Brixton riots. He was smashed over the head with a block of concrete. It seems the mob viewed journalists in the same light as the police.

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<sup>13</sup> comment made at Ben Gibson's Case

<sup>14</sup> see ref 48, Bath Evening Chronical 2 October 1990

This and many cases where photographers have been injured is the direct result of a change in policy in courts instructing the media to hand over material to be used as evidence (*slides 101 - 102*).

John Wilson, Controller of Editorial Policy at the BBC, helped in preparing a report on the implications of the police seeking High Court Orders to seize material for evidence. He argued that five new and more stringent conditions should now apply.

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- (1) The journalistic material should be essential.
- (2) Information should be unobtainable elsewhere.
- (3) Other sources should have been thoroughly explored.
- (4) The investigation should be of a serious arrestable offence.
- (5) Material handed over ought to be the minimum required for the purpose.

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<sup>15</sup> see ref 51 Police Review 16 November 1990 P/2252

# D. EVIDENCE AND POLICE PHOTOGRAPHY

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## (1) PHOTOGRAPHY WITH VALUE AS EVIDENCE

Some consider beauty to be distracting in making a "documentary record". It may contribute to a lie. A picture may still however, more efficiently communicate the issue by the photographer being aware of creative possibilities.

S.G. Ehrlich is a specialist in the preparation of court exhibits. He is concerned at defining the requirements for legal photography to aid civil and criminal cases, as distinct from amateur, freelance or journalistic practices.

He said,

"In addition to understanding the scientific principles of physics, optics, and chemistry on which photography depends, the good photographer must have the imagination and creative ability to reproduce scenes on film so that they will convey to the viewer the same information and impressions he would have received had he directly observed the scene".<sup>16</sup>

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<sup>16</sup> Ehrlich, 1967, P/26

Photographs can enable lawyers in court to present evidence that would otherwise be unavailable. They are an effective means of informing and persuading Magistrates, Judges and Juries. However, Ehrlich cautions against the use of artistic interpretation.

"In making photographs for use in litigation, lawyers and photographers should strive for characteristics of objectivity and accuracy. So far as is possible, photographs should show the matter depicted in a neutral, straightforward way. The photographer should be cautioned against producing dramatic effects. Any drama in the picture should emanate from the subject matter alone, and not from photographic techniques, such as unusual camera angles, printing variations, cropping and the like. Any such attempt to dramatise photographs may result in their exclusion and a consequent suspicion on the part of the jurors that the party offering such photographs cannot be trusted".<sup>17</sup>

Photographs can then, of course, mislead. But as pointed out here, it is the photographers duty to be aware of the use of photographic techniques that assist in telling a `truth'.

(A) DEVELOPMENT & EXPOSURE - By varying exposure and the development of the film, an impression of a lighter or darker scene could be implied. A photographer could however, (and should), manipulate these

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<sup>17</sup> Ehrlich, 1967, P/27

variables to assist in reproducing a more 'accurate' representation of the scene. Manipulation then is not an inherent evil, but is sometimes necessary to compensate for deficiencies in what the film can record, as compared to the eye.

- (B) **CONTRAST** - As with development, a scene can be lightened or darkened to achieve a particular effect. An interior for example, by heavily printing-in can be made to look dark and hazardous. By lightening, it could be made to look bright and cheery.

Soft grade paper can minimise, or even eliminate, bruises on flesh. Hard paper on the other hand, can make skid marks darker. A jury could thus be mistakenly be led to believe that the darker skid marks mean that the vehicles were travelling faster.

- (C) **DEFINITION** - Poor definition can result from an out-of-focus negative (or printed so!). The use of a lens of low resolving power, or an unreasonable degree of enlargement. Sometimes, a creative photographer would use a soft focus attachment for aesthetic reasons, or to obscure damage to a negative. Evidentially however, the photographs resulting would be less than accurate, even though the loss of definition may hardly be noticeable. A picture of say, damage to some motor vehicles, could be made to look less damaged or detail could be lost entirely.

(D) REVERSE PRINTING - A common error that can sometimes be detected by viewing a written sign, registration plate etc. However, without such references, damage might be shown on the wrong side of a car or street. Even when produced by accident and nothing is 'hidden' of the evidence, such pictures can disturb a jury and introduce suspicions.

(E) DOUBLE PRINTING - When more than one image is printed to give an impression of being a single, original photograph. There is no legitimate use in law. They can usually be easily detected and the photographer charged with perjury.

Retouching, either a print or negative, would be similarly be viewed with suspicion.

(F) CROPPING (printing less than the entire negative) - This is usually done to conform the negative image size to the printing paper. For example 2 1/4 square negatives printed on 10 x 8 paper. Aesthetically, cropping can eliminate distracting or irrelevant detail that are un-necessary to the centre of interest.

To mislead, cropping could be used to eliminate a 'bothersome' road sign that may be detrimental to a traffic claim case. As contact sheets are frequently used as court exhibits, a photographer trying to deceive would be unwise to

crop at the printing stage. An original camera position with this intent, would have been selected!

Ehrlich sites an outrageous example to illustrate a use of selective cropping. A case involved the collapse of a crane on a building site where there were many claims for injuries compensation. The plaintiff's lawyers had a print of the structure made 40" high by only 10" wide. This had the effect of making the crane look very unstable. In fact, this mounted photograph used in court tended to sway when exhibited before the jury!<sup>18</sup>

- (G) USE OF LENSES - A wide-angle should only be used when really necessary. Interiors can, for example, present difficulties in positioning the camera.

Telephoto lenses again, may be used to overcome difficulties in positioning. But more frequently, they are used in surveillance work to photograph the subject un-observed. Because a specifically small part of the scene is recorded, it is often practice to include shots taken by a normal focus lens to offer some context to telephoto photographs. Another problem is the very limited depth-of-field. Background that may offer supporting explanation will be out of focus. A picture could well be looked at with some suspicion by the jury.

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<sup>18</sup> Ehrlich, 1967, P/17

Both lens types alter the perceived perspective. Wide-angle lenses tend to make objects appear further from each other than they really are. Conversely, telephotos can make the subjects appear very close when they were yards apart.

Because of the perspective is altered, a print would need to be viewed from different distances to restore a normal view. It may be necessary to explain and point this out to the jury.

In short then, photographs can be considered useful to Trail Lawyers in court in that they are of help in solving three main problems in litigation. That is:

Investigation

Preservation and

Presentation

The photographer should thus use his imagination, craft and artistry. But this should be done to strive for accuracy, rather than effect.

Now all what I've previously said on evidence, largely relates to the taking of photographs after being commissioned by counsel, following events. Mostly however, I find myself in courts authenticating photographs that I've taken at an incident at the time. Frequently, I have little idea to what, if any, purpose a photograph of mine may be put when I'm recording an event. I do so with a number of projects and objectives in mind.

Without prior knowledge of what are likely to be the issues in a case, it can be somewhat hit and miss to take images that are useful.

Relevance is usually a first test in assessing a photographs admissibility in evidence. [R. Vs Maqsud Ali (1966) 1QB 688] <sup>19</sup>. This is for the Judge (alone) to decide - usually in the absence of the Jury. The `weight' of evidence given by the picture are matters for the jury to decide.

Photographs have long been admitted in evidence. In an early case - R. Vs Tolson (1864), the judge observed that a photograph is,

"only a visible representation of the image or impression made upon the mind of the witness by the sight of the person or object it represents" <sup>20</sup>.

This statement presupposes that the authenticating witness has earlier seen the situation represented in the picture. Not now true of records made by X-ray cameras and surveillance cameras using infra-red film. Then an expert witness would be required to testify.

It is usually required that the photographer attend court to certify the accuracy of the photographs and (sometimes) confirm that they were taken from un-retouched negatives.

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<sup>19</sup> Cowsill, E & Clegg, J. 1990, P/69

<sup>20</sup> Schiff, Stanley, 1978, P/757

Currently, photographs that pass the test of relevance may be admitted in evidence by the:-

Civil Evidence Act 1968, Sect 10 (1) &  
Criminal Justice Act 1988, Schedule 2

They provide for the admissibility of statements contained in 'documents', which are defined to include - audio tape, photographs and film.

I show a few examples of occasions that I've witnessed arrests (*slides 103 - 108*). All of these photographs have been used in various court cases. They have helped the defence establish certain matters that were at issue.

### **CASE HISTORY: BRITISH AEROSPACE OPERATIONS IN THE HAFREN FOREST IN POWYS, MID-WALES**

I was asked by the 'Welsh Anti-nuclear Alliance' and local CND and Greenpeace groups to take photographs of structures and installations that were being constructed secretly in the Hafren Forest. There was much concern locally at the activities, and no-one in authority would comment (*slides 109 - 114*).

Military helicopters frequently overflew the area, witnesses stated that they saw strange lights, and a private security company employed to keep intruders away. A lorry had also crashed carrying supplies to site, with police keeping local residents well away.

Bearing in mind some of the principles of evidence that I've outlined, I took a series of photographs, a few of which I show here.

I have attempted to show the relative positions of the buildings and 'pad' on the site, with other foundations showing the likely location of future building. Orientation was an issue so that direction and alignment could be viewed on a map. A track ran nearby but could not be viewed from the site. I suggested its course with the bases of a line of trees.

The area is noted for its 'optical' and 'electrical quietness'. Because of the likely defence nature of the installation, I wrote to Duncan Campbell formerly of the New Statesman and a writer on defence matters, enclosing some notes and a bundle of photographs. He observed from the interior shot, that the nature of the room with the presence of nitrogen cylinders, probably indicated cryogenic cooling of electronic equipment. Taken together with the 'compass' type markings on the base of one of the buildings, which he says is likely to be some sort of azimuthal/elevation mount, he concluded that a connection with American research into their 'Strategic Defence Initiative' was rather likely.

The local M.P. Alex Carlile was thus informed of the most profitable questions to ask the Ministry of Defence, which eventually resulted in the installation being closed.

### **CASE HISTORY: PARKING TICKET**

As a last example of the use of photographic evidence, this time in court, I'll mention a recent example that affected me personally. On the 5th July, I got a "fixed penalty notice" while parked in Dryden Street. My vehicle was parked on double-yellow lines that were faded and no longer appeared operative. In addition, a "blue plate" allowing parking for up to two hours was displayed. I had even (sometime earlier) asked a police constable for his view. He advised that it was alright to wait there, the blue plate applied.

On getting the ticket, this policeman could not be found to support my case. The traffic warden office would not withdraw the ticket or discuss the matter further. I therefore requested a date for a magistrates court hearing.

Before the case, I had taken a photographs of the scene (*slide 115*). The obvious elements to include were; a portion of the road (for scene setting), the yellow lines, and the blue plate.

Time and public money was spent in preparing an un-necessary case against me (again!). I think most would have paid the ticket and not bothered to defend. On seeing the photographs, exhibited as evidence in court, the magistrate agreed that there was no case to answer, dismissed the case.

It must be admitted that this is a boring photograph. It is not particularly beautiful, not many hidden meanings. But it has a power sufficient to communicate information accurately that has been useful in assessing "truth".

## **(2) ON BEING WATCHED - POLICE SURVEILLANCE**

Surveillance methods originally employed against 'target criminals' are now widely used by 'Area Observation and Intelligence Units', supposedly to deal with burglary and street crime. However, political and industrial meetings and demonstrations are routinely watched and recorded. Information on activities, photographs, and videotape of individuals are held in Special Branch files and the Collators Office of local police stations, even when the person has not been charged with offenses.

I photographed this surveillance team working at the Notting hill Carnival (*slides 116 - 118*). The reason for this operation I was told was to assist the police in there three main objectives:

- to preserve public safety
- maintain public order
- prevent and detect street crime.

The equipment they use is specially adapted to enable a video and still picture to be derived from the same source. More convincing in evidence. Police helicopter cameras can now identify a person in a crowd from two miles away.

At the Notting Hill carnival, the police also used the 'Esso' airship as a surveillance platform. During ground operations, sometimes controlled by intelligence from the air, evidence such as drugs and weapons could be photographed at the point of

seizure (*slide 119*). This is to counter allegations of planting such evidence by the police.<sup>21</sup>

It is perhaps apparent that I have a reason for looking into some of these subjects as they concern me personally , being watched so much! (*slides 120 - 122*).

### **Public Order Surveillance Vehicle (P.O.S.V.)**

This was originally deployed to gather evidence of hooliganism at football matches, (hence its nickname - 'Hooly-van'). It was developed by the Home Office Scientific Research and Development Branch in around 1981, after the riots (*slides 123 - 124*).

Equipment is mounted on a Ford Transit Base. It's armoured and is specially equipped for surveillance, identification, intelligence, training and evidence collection.

The periscope platform supports two video cameras, one looks through the back of a Nikon F3 body fitted with a 300mm lens and image intensifier. Displayed on a video screen is exactly the same image that the still camera would see. The operator can so observe and film continuous action. Shooting stills this way provides pictures of far higher quality than those taken from video-tape. Another video camera has a

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<sup>21</sup> see ref 45, Police Review 31 August 1990 P/1719

wide-angle lens and provides contextual material against which the still photograph can be compared.<sup>22</sup>

### **`Reluctant Subjects' - Tim Malyon**

On the 20th June 1986, 200 were arrested on the A36 near Stonehenge. Prisoners were lined up and their photograph was taken with a Polaroid `Swinger' camera of them with their arresting officers (*slide 125*). Wiltshire Police Press Officer said,

"The purpose was to identify the police officer with the prisoner".<sup>23</sup>

This procedure was introduced as an `administrative aid'. In public order situations where many arrests could be expected, confusion could arise. During the miners strike, cases came to court where the wrong arresting officer was attached to the wrong defendant.

Another photograph is taken later of the prisoner (along with other details) for the Criminal Records Office.

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<sup>22</sup> see ref 5, BJP 15 August 1986, P/948

<sup>23</sup> see ref 5. BJP 15 August 1986 P/948

P.A.C.E. says that police are empowered to take such photographs, but that they must be destroyed if the defendant is not charged or found not guilty.

**(3) POLICE AND CRIMINAL EVIDENCE ACT, 1984.  
CODES OF PRACTICE.**

Section 4 - Identification by photographs.

Photographs may be taken of an arrested person only on this written consent. He may witness destruction of the negative and prints if he is not to be prosecuted.

Without consent, photographs may be taken if a person:-

1. arrested at the same time as others and it is necessary to establish who was arrested, and at what time and place.
2. has been charged with a recordable offence this relates to offenses which convictions are recorded in National Police Records.

Force may not be used to take a photograph (*slide 126*).

A record must be made as soon as possible for the reason for taking a persons photograph, without consent.

# E. RESTRICTIONS ON PHOTOGRAPHY

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## (1) A BRITISH PHOBIA?

In Trafalgar Square it is actually an offence under the Trafalgar Square Act 1844 to,

"use artificial light or a tripod or stand for photography without the written permission of the Minister",

or be fined £50. (*slides 127 - 128*).

In an article in the British Journal of Photography, early in 1990, photographer -Rolf Richardson points out that Britain has an extra dislike of cameras. What he calls a "Great British Camera Paranoia". He sites some examples of takeing pictures in various places.<sup>24</sup>

In Covent Garden he is asked to move quite quickly by a Security Guard, pointing out that he is on private property. (Even though the tripod stands on cobble stones in the middle of the square!).

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<sup>24</sup> see ref 24, BJP 4 January 1990 P/12

Taking pictures in a shopping arcade, this time without a tripod, a security guard again intervenes. Apparently, photography is not allowed since he might be 'casing the joint' for a burglary.

In my own case, when I did my large format project here, I took equipment the Castle grounds in Nottingham when I was instantly set upon by two gardeners. A no uncertain terms, they told me that 'professional photographers' must have permission to be there and told me to clear off! I wrote to the Recreation and Leisure Services Manager at the City Council to complain. He apologised and said that there had been a mistake! (*slide 129* - reproduced as appendix 1).

Contrasting this with stories of a different attitude in other parts of the world, Richardson points out that,

"The curious thing is that this form of camera paranoia is a very British phenomenon. Other places may, of course, have their own camera hang-ups, but their reasons and cultures are very different" <sup>25</sup>.

Moslems sometimes view cameras as taking away something of their souls. The Koran prohibits any pictorial representation of Man.

America seems to have a view that you can do anything unless it's specifically forbidden (leading perhaps to their Freedom of Information Act). Further, protection

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<sup>25</sup> see ref 24. BJP 4 January 1990 P/12

is guaranteed by the Fourth Amendment to the Constitution of the United States, in that people have a right to be secure in their homes with their papers and effects.

The Fourth Amendment states:

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized".

In Britain, However, it seems that you can't do anything unless it's specifically allowed! The Official Secrets Act is a manifestation of this attitude. It is one of the most restrictive of any `free' country. (*slide 130*)

All this description of police harassment is all very well. It is possible to conclude that so long as you stay away from public order situations, you will come to no harm.

Perhaps at the other end of the spectrum of photography to "front Line" action work, but still subject to restriction and injury, Fay Godwin has strikingly similar tales to tell.

She also feels her liberties threatened. In her book "Our Forbidden Land", and a letter to BJP <sup>26</sup>, she recounts her desire to photograph Stonehenge (*slides 131 - 132*). On writing to English Heritage for permission to take photographs, outside normal working hours, she was asked to put up with film crews that may be present at the same time, and for a fee of £200. On protest, the fee was waived but she was asked to restrict herself to just one visit, by appointment. Godwin replied saying that:

"Advertising film crews may be able to afford huge location fees. I do not expect to be charged for personal creative work.

Further, Stonehenge has been interpreted by many eminent photographers such as Brandt, Caponigro, Misrach, who have spent time with the stones and got to know them. It would be unthinkable for me to attempt in one visit, my interpretation. In future, it would appear that Stonehenge would only be interpreted by English Heritage 'approved' photographers. Possibly this could amount to a form of censorship?" <sup>27</sup>

At the same place, Godwin experienced another form of censorship. She was within the circle at Stonehenge in June 1988 when there was fighting between the police and those attending the solstice: (*slide 133*)

"There was a very nasty atmosphere. I took a snap with a small amateur camera and as it was still dark, the flash went off. A policeman turned around

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<sup>26</sup> see ref 29, BJP 22 March 1990, P/9

<sup>27</sup> see ref 29. BJP 25 January 1990 P/5

and said 'if you take any more pictures I'll smash your camera'. This was before the riot started"<sup>28</sup>.

## **(2) SOME OF MY OWN EXPERIENCES**

I have already discussed the fact that my photography was of use in evidence to the High Court at Winchester in trying to get damages for the police action six years earlier. However, difficulties with the law mean that I am trying to learn more of understanding the techniques involved in presenting a better quality of evidence.

This is something I have done a number of times, but I've decided to recount some recent experiences to explain more of the value of evidence to my activities.

In May 1991 at a small "free festival" near Chipping Sodbury in Avon, a major police operation was mounted and road blocks were set up. The police were attempting to search most of those attending for controlled drugs. This "blanket" activity was held by our counsel to be illegal, since the police must act on individual grounds to suspect any particular individual. The law says that they must not make judgements on colour, style, appearance etc.

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<sup>28</sup> Godwin, Fay 1990, P/23

This was, however, exactly what was occurring and I was asked by lawyers to go and photograph the circumstances for later use (*slides 134 - 142*). I have engaged in this activity many times and know police frequently object or are obstructive.

This occasion was no different and while photographing, was threatened with arrest. It was never clear exactly why, but it would have achieved getting me out of the way. I was also subjected to a search myself.

The story is described in a statement that I made to record an official complaint against the police. This, of course was followed with a civil action for a range of torts. The solicitor dealing with the case, Susan Gregson-Murray of Nottingham, was impressed with the range of evidence I was able to supply. They included

- a tape recording,
- a form police have to issue after searching (invalid by its completion),
- notes made during and immediately after events
- a number of photographs of the police involved.

Added to this, I now find that I'm included on police intelligence reports and was able to provide my solicitor with a copy of this as well (*slides 143 - 145 reproduced as appendix 2,3 & 4*).

This is now the basis of a new case against the Chief Constable that has some quite serious civil liberties implications. A barrister has drafted his advice and a writ has been issued (*slide 146 reproduced as appendix 5 & 6*). My solicitor however points out that:

"I am confident that the police will fight the case tooth and nail... They are likely to feel obliged to respond in strong terms, so expect the worst from them!

The media are beginning to show an interest, I have had conversations with researchers from BBC Current Affairs department and 'Rough Justice' (*slides 147 - 149*). The NUJ newspaper, the 'Journalist' will also shortly be carrying a piece on my situation.

## F. POST - SEMINAR OBSERVATIONS

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**I am aware that in representing festivals and travellers, I have chosen to deal with contentious issues of national concern. Although I have set out at the beginning of this paper to promote a positive image, it is obvious that there is another side of the coin.**

Whenever people gather together in large numbers, there will always be tension with local residents and the authorities. This is especially true at places where people have previously been many times before. Stonehenge is an obvious example. A 'picturesque' view of the monument (*slide 151*), while pleasing, is not very helpful in describing the issues surrounding this hallowed place.

People have over many generations, damaged the Stones to various degrees and they are therefore in need of protection. When celebrations used to take place at the summer solstice, most held the stones with some reverence. Others seemed less caring and I have included pictures (*slides 152 - 3*) to show that the Druid ceremonies were sometimes disrupted by protest and the stones were regularly climbed on.

Also held around the summer solstice, the Glastonbury Festival often attracted between 70 - 100,000 people. I have taken many photographs over the years of the 'positive' aspects of a lifestyle 'on-show', for the festival could be thought of as a

exhibition of 'Green values'. At the end of the event, the amount of rubbish strewn over the site and nearby field, calls some of these values into question and these photographs (*slides 154 - 5*) I've noticed seem to start a debate whenever they are shown.

I know from experience, working with the welfare teams, that some attending outdoor events do not always have a good time. There are, of course, many reasons why this is, but one is the sheer size of an event that can leave some feeling quite alienated. There is quite often an uncomfortable crush in front of the stages and I think this photograph (*slide 156*) shows some quite dejected people who probably regret paying for the privilege of being crushed and corralled like animals.

I mentioned when discussing my own work that I realise some could find its content threatening. It is not, of course, only what a picture is chiefly observing that may make it feel threatening. It is also the connotations that an audience may make when reading signs and devices within the picture.

It is obvious then that the signs encoded to further the photographers meaning should not offend the viewer. An example of this may be a sign commonly known to represent anarchy, the 'anarchy - A'. This sign is widely used in publications, on vehicles (*slide 157*) and in events posters. To many people involved with such events, the 'A' is held up with pride and representing a political theory (of non - violence). If my pictures were to be used to reassure a more conservative public, they would have already been rendered useless by the inclusion of this symbol.

A similar device, say a `rainbow' would, I think, convey a similar political message from the photographer, but be more easily acceptable to large sections of the population, who would feel less threatened.

I have learnt that it is of paramount importance to have care about such elements as they underpin effective communications.

As John Berger says in *Ways of Seeing*:

"Every image embodies a way of seeing. Even a photograph. For photographs are not, as is often assumed, a mechanical record. Every time we look at a photograph, we are aware, however slightly, of the photographer selecting that sight from an infinity of other.... The photographer's way of seeing is reconstituted by the marks he makes on the canvas or paper. Yet, although every image embodies a way of seeing, our perception or appreciation of an image depends also upon our own way of seeing".<sup>29</sup>

Drug and alcohol use is also an issue that should not be ignored. I have included these last three pictures (*slide 158 - 160*) to show an image that some of us are less than proud of. The artwork on the back of the bus is an incitement to take the drug ecstasy (known by users as `E'). It is illegal and hence is very likely to attract the attention of the authorities, (and did!).

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<sup>29</sup> Berger, John 1972, P/10

In conclusion, on the subject of restrictions, Sir David Calcutt has just prepared a report on the regulation of the press. If the proposals became law (as seems likely), the criminal law would be applied making it an offence to electronically 'eavesdrop' and to use a telephoto lenses on private land. A new civil law of breach of privacy would allow individuals to sue for damages. Fine if you can afford to go law, but otherwise, for the rest of us ...?

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60	"Our Forbidden Land" - review of issues surrounding access to land	<u>ID Magazine</u> No 94 P/60	July 1991
61	Moral Rights + Photographers control over use of work	<u>BJP</u> P/3 Editorial	1 August 1991
62	"YOU pays out for altered Royal pic"	<u>BJP</u> P/4	1 August 1991
63	"Fuji ad sparks disabled media image debate".	<u>BJP</u> P/4	8 August 1991
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65	"'Enchanting' pic does not amuse"	<u>BJP</u> P/5	15 August 1991
66	"None so blind" - <b>Steve Mayes</b>	<u>BJP</u> P/10	22 August 1991

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67	"Indecent exposures" - <b>Steve Mayes</b> (3rd of 3 articles on issues of press freedom and representation)	<u>BJP</u> P/16	5 September 1991
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73	"Former Mayor fined for copyright breach" (Action by David Hoffman re: copyright infringement - bad uses!)	<u>BJP</u> P/4	24 October 1991
74	"Dangerous liaisons" (Police surveillance operations by Derbyshire Police)	<u>Police Review</u>	8 November 1991
75	"Operation Solstice - Reviews of film"	Various papers	3 - 13 Nov 1991
76	"Making the Media work for you" (police - press relations)	<u>Police Review</u>	15 November 1991
77	"Charity streamlines image presentation"	<u>PR Week</u>	28 November 1991
78	"IPR charity group set to debate image code"	<u>PR Week</u>	5 December 1991
79	Photography and War - leader item	<u>BJP</u> P/3	5 December 1991
80	"Nothing but the truth" -		

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81	"The shock of the few" - <b>David Lee</b> (offensive photographs)	<u>BJP</u> P/20	12 December 1991
82	"Freelance concern over Downing Street access"	<u>BJP</u> P/4	9 January 1992
83	Photograph - early photo of policeman searching a London docker	<u>BJP</u> P/6	9 January 1992
84	"Young Princess suffers a bad attack of Sun spots" (retouching to lie!)	<u>BJP</u> P/5	16 January 1992
85	Documentary photography leader - Magnum and Network	<u>BJP</u> P/3	23 January 1992
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88	"Benetton plays new card in rolling back frontiers of shock"	<u>Guardian</u>	24 January 1992
89	"Benetton Aids advert offensive, watchdog says"	<u>Guardian</u>	25 January 1992
90	"Benetton advert: Frare speaks"	<u>BJP</u> P/5	30 January 1992
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93	"Magnum collars record company copy cats" (manipulation and copyright)	<u>BJP</u> P/5	19 March 1992
94	"The Creatures Time Forgot" - <b>David Hevey</b> (public image of disabled people)	<u>BJP</u> P/26	26 March 1992

95	"Benetton rapped over three ads"	<u>BJP</u> P/5+9 26 March 1992
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