

SOUND ADVICE!

This is what to do if you or the party / festival you're attending appears threatened with closure, or worse!

If police attempt to enter the premises without a warrant, they will bluff, cajole and threaten. The new powers under the CRIMINAL JUSTICE and PUBLIC ORDER ACT 1994 (CJA) give the police fresh powers to enter, stop parties and confiscate equipment. Nevertheless the police may also try and gain entry on the grounds of different offences.

All of the likely ones are dealt with here — but the list is not exhaustive!

1. Criminal Justice Act (section 63).
2. Breach of the Peace.
3. Noise complaints.
4. Presence of drugs.
5. Public nuisance.
6. Illegal sale of alcohol and unlicensed entertainment

1. CJA — SECTION 63.

This section defines what a rave is: "a gathering on land in the open air (or partly open to the air) of 100 or more people whether or not trespassing at which amplified music is played at night which by reason of -its loudness -its duration -the time it is played IS LIKELY TO CAUSE (ie. does not have to have caused) SERIOUS DISTRESS TO THE LOCALS".

It includes parties on your own land or anyone else's.

It does not include raves in enclosed spaces, eg. underground —tunnels, caves, etc., nor fully enclosed warehouse spaces, etc.

It could catch any decent house party!

Once the above circumstances have been found to exist police have extra powers of stop, search and seizure.

They can ENTER A PREMISES WITHOUT WARRANT to see if the situation would justify a section 63 direction / to use any of the following powers:

They can DIRECT 2 or more people PREPARING for 10 or more people WAITING for 10 or more people ATTENDING the rave to LEAVE and remove ANY VEHICLES or PROPERTY from the land.

They can ARREST you if you fail to comply within a reasonable time OR return within 7 days.

They can SEIZE AND REMOVE VEHICLES AND SOUND SYSTEMS if a direction has been given to leave and you don't, or you return within 7 days.

If the police exercise their powers under this Act there is little you can do (legally) except try all the usual tactics. It is unlikely that the police will arrest the whole party (there's always a first time!) but they will seize equipment. CASE HISTORY : Blackmoon at Corby, August '95. At the conclusion of the trial, February 1996, they were found guilty and the PA was forfeited and is scheduled for destruction, cost of which

to be paid for by the defendants. One member was given 1 years conditional discharge which is essentially a bind over, but more serious as it is a criminal offence. An appeal is pending. Defence; "Reasonable steps" must be taken to inform those present that a direction to leave under Section 63 has been given. Was it? How? When? By whom? The direction must be given by a Superintendent and then any constable at the scene can communicate this to those present. A constable operating alone cannot issue a direction. The officers must identify which section they are using.

It can be a defence to argue that the time given to leave was 'unreasonable', eg. vehicle broken down, overheated PA, etc. Think it through..!

It is a defence to have a reasonable excuse to re-enter the site. To collect something? Powers relating to seizure of PA should not include staging, lighting, vinyl, backdrops, instruments, just the actual PA equipment. The police regularly abuse their powers in relation to this one and it helps if you have someone there willing and able to argue the point. A lawyer on the end of a mobile phone can be very useful. Prepare yourselves in advance! Hired equipment can be retrieved by the owner if it can be proved that there was no knowledge of the PA being used at that gathering. The owner must apply to the court for its return and will get it back eventually.

2. BREACH OF THE PEACE.

There is no clear definition, either for them or for us, hence the Criminal Justice Act which will do away with all the unclarity.

Breach of the peace is used in aggressive / public order circumstances when there is aggro or something that is breaching the "Queen's peace". Usually it has meant when harm is actually or likely to be done to a person, or, in his presence, to his property, or when someone is in fear of being harmed through assault, riot, or unlawful assembly. If you are trespassing, a landowner or his / her agents can use force to remove you, but the police cannot act as the landlord's agents.

Trespass is not a criminal offence, and as such is not arrestable. IF you should resist the landlord's attempts to remove you while the police are present you may be arrested for a Breach of the Peace. Always ask who the landlord is, ask to be introduced, and calmly insist on knowing what is meant by a Breach of the Peace, and if all else fails and the police force entry without a warrant, and arrest, etc., immediately contact a 24 hour helpline and complain or sue. Aggravated Trespass is a different ball game and is widely used (Newbury, Hunt Sabbs, etc.).

3. NOISE COMPLAINTS.

It is possible that the police will try and shut a

party down via the Local Environmental Health Officer or vice versa, even though they have a whole range of other powers to choose from. They may turn up with someone from the Local Authority. They can serve an "abatement notice" on the party organiser at the time or before, and failure to comply with any such notice could well lead to confiscation of the P.A. However, it would be the Local Authority, not the police, who would bring any subsequent prosecution. The police, themselves, do not have the power to close anything down or seize anything under this law. Many councils now have Party Patrols and are using them and occasionally taking people to court. Fines for ignoring enforcement notices are stiff, max. £5000, or 20k if the premises were 'business premises'. Some councils are not using the courts but are using a 'bind over' to keep the peace, or lose your home! They will return hired PA's on the following Monday!



Warning! The Noise Act 1996 is now in force to target house parties, BUT the Institute of Environmental Health Officers recently issued a report saying that travellers and ravers should have access to derelict land for both living and partying!! Good on 'em, EHO's should note.

4. PRESENCE OF DRUGS.

Insist on the presentation of any search warrant if the police want to search the premises. DO NOT INVITE THEM IN. Once inside by invitation they can search but they do not need a warrant to search a person, a vehicle or a vessel if they have reasonable grounds (eg. smell) to suspect that there are drugs present. The mouth is NO LONGER an intimate area and can be searched WITHOUT CONSENT. Please remember for obvious reasons. Obstruction under the Misuse of Drugs Act 1973 is designed to cover any disposal of the drugs, eg. swallowing, dropping, throwing, etc. Use your common sense — the police will need to be able to prove that it was your drugs they saw thrown to the floor or whatever. It is important to remember that "obstruction" is potentially more serious than mere possession, and carries separate penalties!

5. PUBLIC NUISANCE.

Basically this is another popular catch-all. It means any act or omission that may endanger life, health, property, morals or the comfort of the public, or obstruct the public from enjoying their rights!! It must affect a proportion of the community (ie. needs lots of complaints, not

just a few).

In spite of the CJA, police are still using 'Public Nuisance' or 'Conspiracy to cause Public Nuisance' under the Criminal Law Act 1977. Raves / acid house parties have been held to constitute a public nuisance (See Regina v Shorroock [1994] 98 Cr. App. R. 67).

If you are the land owner you are deemed guilty if you knew or ought to have known that the use of the land would result in a public nuisance. Using this one, the landowner can be nicked but NOT if the CJA is being used. It does not have a power of arrest without warrant.

6. ILLEGAL SALE OF ALCOHOL AND UNLICENSED ENTERTAINMENT.

You do need a license to sell alcohol and it is illegal to sell without — to do so leaves you open to charges of organising an "illegal entertainment" which is quite serious, as it's all to do



thing to remember about section 63 is that it applies equally to places that are NOT trespassed. It's worth remembering that the blocks can be in the middle of the country and a long queue of cars is not what they want. Don't give up, don't go home, there's safety in numbers, and the persistent and sorted get there in the end.

STOP AND SEARCH.

Under POLICE AND CRIMINAL ACT (PACE) the police have powers to search a person in a public place if they have reasonable grounds to suspect they have stolen or prohibited (ie. weapons / drugs) articles on them. Codes of Practice under PACE apply which says:

CLAUSE 7

Reasonable suspicion can never be supported on the basis of personal factors alone, eg. colour, age, hairstyle, or manner of dress.....nor.....stereotyped images of person or groups.

Before a search of a vehicle the officer must take reasonable steps to tell you:- his name and number, the object of the search and the grounds for doing it and if practicable, (ie. it's quiet), make a record of the search and give it to you, using a special form called " The National Search Record " (Code 4:3). INSIST on it being filled in, coz they hate the paper-work and being asked to justify their actions . Reasonable force can be used to search you / your vehicle (Code 3.2).

CONFISCATION OF RIGS AND EQUIPMENT.

Now the police have vastly increased powers to seize and retain vehicles and sound systems.

Once a section 63 gathering is found to be in place (a "RAVE" as defined by the Act) and the police have directed that all persons leave the rave and remove their equipment and vehicles and they refuse to do so within a reasonable time then they can seize them. They can also RETAIN them until the end of the proceedings (ie. the court proceedings that may arise out of any criminal charges brought under the Act). This could be a very long time and could cost people a lot of money in lost revenue. Further, the police can charge the owners of the property for the costs of removal and storage and worse, destruction!!!!

It would appear that the police are fairly reluctant to nab hired equipment, for obvious reasons. If they do, it can be retrieved eventually.

FORFEITURE.

Vehicles cannot be forfeited but the costs of removal and storage can be reclaimed from the owner (by way of a civil debt — but it may mean you don't get it back until you've paid up or made an arrangement to do so !!).

Sound Systems can be forfeited but it is not the police who decide. It is a matter for the sentencing court —

They can decide that as part of your sentence (ie. you have to be convicted of an offence under the Act) that you should forfeit it. HOWEVER, they have to be sure that it was used at the rave.

If it has been disabled prior to its removal, then it could be more difficult to prove.

They should look at the effects of an order for forfeiture on the owner — ie. the more it is worth the less likely they are to make that order.

Always ask what powers an officer is using — seek legal advice if anything is seized.

Don't forget, your lawyer is your representative. Don't leave it all up to them! Question, discuss, plan with them, and if you are not satisfied, charge them!

LAWYER LIST AND ORGANISATIONS

Tony Stoke 0181 549 4282
(After 5.30 — 0973 119 364)
4 Clifton Road, Kingston, Surrey KT2 6PW.
Greg Powell 0171 624 8888
(After 5.30 — 01459 118 181)
290 Kilburn High Rd, London NW6 2DD.
Mike Shwartz 0171 833 4433
(After 5.30 — 01459 136 205)
275 Greys Inn Rd, London WC1X 8QF
Pete Silver 0171 209 5000
After 5.30 — 01459 127 774)
52 Malden Rd, London NW5 3HG

ADVANCE PARTY. 0181 450 6929
PO Box 3290, London, NW2 3JJ
Legal Defence and Monitoring Group.
0181 802 9804. — BM Box Haven, London WC1N 3XX. (can do legal monitoring).
Release. 0171 729 9904.
(After 5.30 — 0171 603 8654),
388 Old St., London EC1.
Liberty. 0171 403 8888.

21 Tabard St. London SE1 4LA.
Advisory Service
for Squatters. 0171 359 8814.
2 St. Pauls Rd., London N1 2QN. 2pm-6pm daily. Excellent practical advice for all things squatting. (see section re; 'exempt persons')
Friends, Families and Travellers' Support Group. 01458 832 371. — 7 Benedict St, Glastonbury, Somerset. BA6 9NE.

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