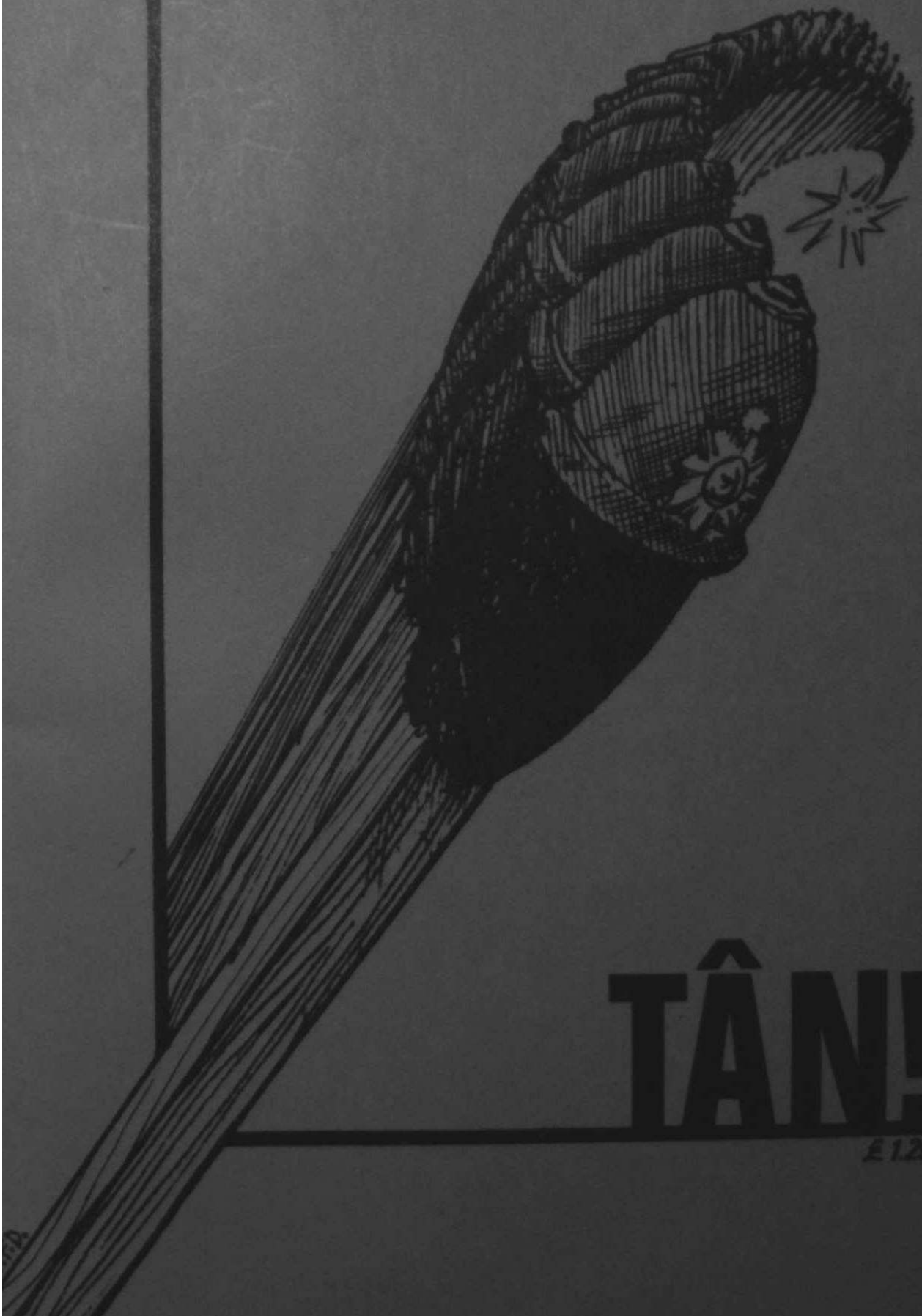
# OPERATION



# TÂN!

£1.25

# RHAGAIR

Cyhoeddwyd yr adroddiad hwn o dan nawdd Ymgyrch Cymru dros Hawliau Dinesig a Gwleidyddol. Ymgais ydyw i ehangu gwybodaeth y cyhoedd ynglŷn ag effeithiau'r cyrch a drefnwyd gan yr heddlu ar raddfa genedlaethol ddiwedd mis Mawrth a dechrau mis Ebrill, cyrch a lysenwyd gan y wasg yn "Operation Tân". Y mae'r rheini a gychwynnodd yr ymgyrch hon ar Ebrill laf yn cynnwys aelodau Mudiad Gweithredu Uniongyrchol Caerdydd, Grwp y Marcswyr Rhyngwladol, Cymdeithas yr Iaith Gymraeg, y Blaid Lafur, NCCL (Cangen Caerdydd), Plaid Cymru, Mudiad Sosialaidd Gweriniaethol Cymru, academwyr, undebwyr llafur ac unigolion eraill sy'n ymddiddori yn y mater. Yn y cyfarfod cyntaf hwnnw, cawsom gennad i gynhyrchu adroddiad cyn gynted ag oedd bosib, ac yr ydym wedi ei gwblhau o fewn mis.

Gallasom gynhyrchu'r adroddiad cyn gyflymed â hyn diolch i gefnogaeth a chydweithrediad y canlynol: Paul Downton, Dafydd Elis Thomas AS, Dafydd Wigley AS a Dafydd Williams. Mawr yw ein diolch i Gwerfyl Arthur am deipio mor gyflym, Siân Edwards am gyfieithu yn llawn mor gyflym o'r Saesneg i'r Gymraeg, Aled Firug am ddarparu deunydd ar gefndir y digwyddiadau a Martin Kettle am ganiatau i ni ddifynnu'n helaeth o'i sylwadaeth ar y dystiolaeth i'r Comisiwn Brenhinol ar Drefniadau Droseddol yn *Policing the Police*, Cyf 2. Carem ddiolch yn bennaf i bawb a ddychwelodd ein holiaduron ar rybudd mor fyr; nid oes neb yn mwynhau llenwi ffurflenni a gwyddom gymaint yr oeddem yn ei ofyn o fewn yr amser oedd ar gael. Heb eu cyd-weithrediad hwy, ni fyddem wedi medru ysgrifennu'r adroddiad - gobeithio y teimlant hwy mai gwrthchweil oedd eu hymdrechion.

Pris yr adroddiad yw £1.25. Croesewir pob cyfraniad, fodd bynnag, tuag at glirio dyled argraffu o dros £900 ac i gefnogaeth rhaglen waith YCHDG wedi hynny. Danfonwch unrhyw gyfraniadau i'r gronfa drwy law ein trysorydd, os gwelwch yn dda, d/o 16 Heol Shirley, Caerdydd.

SELWYN JONES (Cadeirydd, YCHDG)
PENNY SMITH
PHILLIP A. THOMAS

Ebrill 30ain, 1980.

Archebion personol am gopiau ychwanegol drwy'r post (£1.50 yn cynnwys P & P) d/o 108 Bookshop, 108 Heol Salisbury, Caerdydd. Ymholiadau masnachol: P.D.C., 27 Clerkenwell Close, Llundain EC1.

# CYFLWYNIAD

Ar y laf Ebrill 1980 cynhaliwyd cyfarfod yng Nghaerdydd i drafod sut y gellid ymchwilio i weithgareddau'r heddlu fel rhan o'r ymholiadau cenedlaethol i'r ymgyrch losgi tai haf a'r bomiau a osodwyd yn swyddfeydd y blaid Geidwadol yn Shotton a Chaerdydd, a sut y gellid gwneud y gweithgareddau hynny yn hysbys. Llysenw'r wasg ar ymgyrch yr heddlu oedd "Operation Tân". Yr un diwrnod, dywedodd y Ditectydd Brif Siwperintendant Pat Molloy, pennaeth CID Dyfed-Powys:

*"Byddai'n ddoeth i'r rheini sydd wedi beirniadu ymddygiad yr heddlu dewi nes y dateglir y ffeithiau'n llawn".*

Yn y cyfarfod cyntaf cawsom gennad i baratoi adroddiad a fyddai'n cofnodi profiadau'r rheini a arestiwyd ac a holwyd ddiwedd Mawrth a dechrau mis Ebrill. Penderfynodd y grwp y dylid symud y ddadl o lefel atgof, a ddaw'n chwedl yn y man, i lefel ffaith a gwybodaeth gyhoeddus.

Ystyriwn fod yr adroddiad hwn yn gyfraniad i'r ddadl ehangach ynglŷn â swyddogaeth yr heddlu mewn cymuned ddemocrataidd. Wrth reswm, y mae Operation Tân (sef ymgyrch genedlaethol gan bedwar heddlu Cymru ar fater penodol dros gyfnod byr o amser) yn gymorth i ganolbwyntio ein sylw, ond ni chredwn y dylid ystyried hwn yn ddigwyddiad unigryw a digyswllt. Yr oedd rhaglen yr heddlu wedi ei chyd-drefnu'n effeithiol ac y mae wedi dwyn ffrwyth o safbwynt eu cylch gorchwyl hwy eu hunain. Er enghraifft, meddant bellach ar well dealltwriaeth o dueddiadau pleidleisio unigolion ym Mlaenau Ffestiniog ar ôl ymholi o ddrws i ddrws i ofyn sut y bu i bobl fwrw eu pleidlais yn yr etholiad cyffredinol diwethaf. Yn yr un modd, bydd enwau a chyfeiriadau pobl a restwyd mewn papurau personol a ddygwyd oddi ar bobl a arestiwyd neu a gadwyd yn y ddalfa wedi cyrraedd Compiwtar Cenedlaethol yr Heddlu erbyn hyn. Er gaethaf amgylchiadau eu holi, ni chyhuddwyd mo'r un o'r 52 o bobl y daethom i gysylltiad a hwy o'r dramgwydd o ddrwg-losgi neu beri niwed troseddol. Er ein bod yn gwrthod derbyn llosgi fel ffurf o fynegiant gwleidyddol, ymddengys yn debygol mai methiant oedd ymgyrch rwydo'r heddlu o safbwynt darganfod pwy oedd yn euog o hyn. Eglurhad arall ar Operation Tân, fodd bynnag, yw mai dim ond nodwedd atodol oedd yr ymgyrch losgi mewn ymarferiad y gellir ei ddisgrifio orau fel ymgais i hel gwybodaeth wleidyddol. Os mai dyna oedd eu prif nod, yna dichon i'r heddlu fod yn



llwyddiannus.

Gosodwn ger eich bron hanes profiadau'r rheini a gadwyd yn y ddalfa neu a arestiwyd, a chwiliwyd, a holwyd ac a amddifadwyd o'u heiddo personol; gofynnwn i chi ddod i'ch casgliadau eich hunain o ganlyniad i'w datganiadau hwy. Ni wneir yr un argymhelliad yn yr adroddiad hwn ag eithrio ar i bawb a'i darlleno ystyried yr ymhlygiadau ar gyfer y presennol a'r dyfodol o heddlu mwy grymus mewn economi ddirwasgedig. Gobeithio y cyfrifir yr adroddiad yn gyfraniad adeiladol i'r ddadl honno.

# AIL GARTREFI YNG NGHYMRU

Bu ail gartrefi, neu 'dai haf' yn bwnc dadleuol yng Nghymru ers rhyw ddeng mlynedd bellach. Serch hynny, ni ddechreuodd y wasg Brydeinig ymddiddori o ddifrif yn y problemau a geir gan dai haf tan yr ymgyrch losgi ddiweddar yn erbyn ail gartrefi yng Nghymru. Y mae'r rheini sy'n honni mai hwy sydd yn gyfrifol wedi datgan eu gwrthwynebiad i'r ffaith fod Cymry a Saeson yn prynu ail gartrefi tra bod llawer o bobl leol heb gartrefi o gwbl.

Bu cynnydd sydyn yn nifer yr ail-gartrefi ddiwedd y 1960au a dechrau'r 1970au ac o ganlyniad, chwyddwyd prisiau eiddo yn y cylchoedd hynny. Prynwyd tai mewn ardaloedd cymharol wledig i ddechrau ond yn raddol, aethpwyd i brynu tai yng nghanol pentrefi a threfi i'w defnyddio fel ail gartrefi. Y mae gan Gymru 20,000 o ail gartrefi , a rhestr aros o 50,000 ar gyfer tai cyngor, ond ystyrir yn gyffredinol mai amcangyfrif ceidwadol yw'r ffigurau swyddogol hyn. Dengys yr arian a glustnodwyd ar gyfer tai gan y llywodraeth ganolog ym 1978/9 mai cyfanswm o £101 miliwn mewn gwirionedd a glustnodwyd ar gyfer awdurdodau Cymru i'w fuddsoddi mewn tai, sef £74 miliwn yn llai na'r hyn yr oedd ei angen yn ôl y ffigurau swyddogol. Y mae disgrifiad yr awdurdod lleol o'r sefyllfa dai yn Nwyfor, un o ardaloedd harddaf gwledydd Prydain, yn adlewyrchu'r broblem:

*"Dengys y ffigurau eu hunain fod yna gyflenwad mwy o dai na'r galw yn y cylch, gyda rhyw 12,650 o dai ar gyfer 9,500 o deuluoedd. Dewisir, fodd bynnag, fod trigolion lleol yn ei chael hi'n anodd i brynu tai addas - a hynny oherwydd fod prisiau uchel yn y cylch yn mynd law yn llaw â chyfartaledd incwm is na'r cyffredin. Rhyw 88.9% o gyfartaledd incwm gwledydd Prydain oedd cyfartaledd incwm Gwynedd ym 1975. Yn bur aml, tai cyngor yw'r unig ddewis ar gyfer teulu ifanc".*

Y mae 7,000 o ail gartrefi yng Ngwynedd eu hun, a 4,269 o deuluoedd ar y rhestr aros am dai cyngor. Yn ôl adroddiad gan Shelter yn ddiweddar, y mae cynghorau Gwynedd gyda'r arafaf yn Ynysoedd Prydain o ran adeiladu tai. Y gofid mawr, fodd bynnag, yw'r Seisnigeiddio dybryd ar ardaloedd Cymraeg gorllewin a gogledd Cymru, a dyna brif ysgogiad yr ymgyrch ddiweddar i losgi ail gartrefi.

Cychwynnodd ymgyrch Cymdeithas yr Iaith Gymraeg yn erbyn tai haf ym mis Gorffennaf 1972 pan dorrwyd ar draws arwerthiant tai yng Nghaernarfon gan aelodau yn protestio yn erbyn y ffaith fod pobl o'r tu allan i'r cylch yn prynu tai na fedrai pobl leol mo'u fforddio. Wythnos yn ddiweddarach ymosododd yr wrthblaid Lafur yn Nhŷ'r Cyffredin ar ddarpariaethau yn Neddf Dai 1969 a oedd yn caniatau i berchenogion ail gartrefi i hawlio cymhorthdal tuag at wella eu tai. Parhaodd ymgyrch y



Gymdeithas i feddiannu ail gartrefi yn ystod haf 1973. Yn Neddf Dai 1974 diwygiodd y Senedd ddarpariaethau 1969 fel na fyddai perchnogion ail gartrefi yn gymwys mwyach i dderbyn cymhorthdal gwella tai.

Cychwynnodd Cymdeithas Tai Gwynedd ac Adfer gynlluniau darparu tai yn y 1970au cynnar i hybu cydweithrediad gwirfoddol o fewn cymunedau lleol gan annog pobl i werthu tai neu wneud rhodd ohonynt i'r cymdeithasau, a fyddai'n eu hatgyweirio a'u gosod ar rent i bobl leol. Gan mor araf oedd datblygiad cymdeithasau tai yng nghefn gwlad Cymru hyd yn oed cyn y toriadau diweddar mewn gwariant cyhoeddus, pur gyfyngedig oedd dylanwad cynlluniau o'r fath, er bod cymdeithasau tai Cymru yn dal i weithredu yn y maes hwn ar raddfa fach.

O 1974 ymlaen, canolbwyntiodd y Gymdeithas ar ddarbwyllo awdurdodau tai lleol i brynu tai ar y farchnad agored a'u gosod i bobl leol. Ystyrid mai arwydd o ddirywiad cefn gwlad oedd tai haf yn hytrach nag un o'i achosion, ond ym 1976 meddiannwyd rhagor o ail gartrefi ym mhentref "marw" y Rhyd ym Meirionnydd fel protest symbolaidd yn erbyn y ddarpariaeth annigonol parthed cartrefi i bobl leol mewn ardaloedd gwledig. Ar ôl meddiannu rhagor o dai ym 1977, ymddangosodd nifer o aelodau ger bron Llys y Goron yng Nghaernarfon am feddiannu tŷ haf, ac fe'u carcharwyd yn ddiweddarach am wrthod talu eu dirwyon. Ceisiodd y Gymdeithas ddwysau ei hymgyrch yn erbyn tai haf yn ddiweddarach, ond er penderfynu ar ymgyrch o "ddifrod cyfyngedig" yng nghynhadledd flynyddol 1978, ni weithredwyd y penderfyniad: daeth ymgyrch y bedwaredd sianel yn ganolbwynt gweithgareddau'r Gymdeithas.

Ar Ebrill 9fed 1980 datganodd Wyn Roberts, Is-Ysgrifennydd Seneddol Cymru, y cwtogid ar derfynau gwariant y Gorfforaeth Dai a'r cymdeithasau tai yng Nghymru o 3% ar ffigurau 1979/80 ym 1980/81 (sef o £28.8 miliwn i £24.8 miliwn) ac y gellid cymharu'r gostyngiad hwn â gostyngiad o 12% ar gyfanswm y gyllideb dai yng Nghymru dros yr un cyfnod. Awgryma sylwadau yn y wasg fod y cyfyngiadau hyn ar wariant yn cynrychioli cwtogi sy'n agosach at 30% am 1980/81 a 45% dros y ddwy flynedd nesaf, ac amcangyfrifir na fydd yr un raglen o adeiladu tai newydd erbyn 1984.

Y mae'r don ddiweddar o ymosodiadau ar ail gartrefi yn taflu goleuni ar anfanteision ymwreiddiedig Cymru; un broblem o blith llawer yw tai. Rhyw fis cyn dechrau'r ymgyrch losgi, cyhoeddodd y Gorfforaeth Ddur Brydeinig eu bod am gau rhannau o weithfeydd dur Porth Talbot a Llanwern, gan beri colli 11,337 o swyddi. Y mae gwaith dur Shotton yng Ngogledd Cymru ar fin cau hefyd. Gan ystyried dylanwad cau'r gweithfeydd dur ar y diwydiant glo a diwydiannau eraill cysylltiedig, disgwylir i gyfanswm o fwy na 50,000 o bobl golli eu gwaith o ganlyniad i gau'r gweithfeydd dur, sef cynnydd o 50% ar y

92,757 sydd yn ddiwaith yng Nghymru ar hyn o bryd. Y mae'r raddfa o fuddsoddi economaidd, gwario ar iechyd, addysg, tai a gwasanaethau cymdeithasol yn is beunydd na'r raddfa am Loegr a Chymru gyda'i gilydd.
Y mae'r ffactorau hyn, ynghyd â'r fath gynnydd anferth mewn diweithdra eisoes wedi esgor ar ganlyniadau cymdeithasol enbyd. Rhaid wynebu'r posibilrwydd gwirioneddol y gall Cymru ddychwelyd i ddirwasgiad cymdeithasol ac economaidd y 1930au, ond nid dim ond ardaloedd diwydiannol de a gogledd-ddwyrain Cymru sydd yn anesmwytho, fel y dengys yr ymgyrch losgi yn yr ardaloedd gwledig.

Ymosodwyd ar y tai cyntaf ar Ragfyr 13eg 1979. Erbyn y laf o Chwefror 1980 yr oedd y llosgwyr wedi ymosod ar bymtheg o dai ac yr oedd y Det. Sup. Glyn Owen wedi ei benodi i arwain yr ymholiadau yng Ngwynedd. (Cymerodd y D. S. Owen ran yng ngweithgareddau'r heddlu ym 1969 yn y cyfnod yn arwain at arwisgiad tywysog Cymru ym mis Gorffennaf 1969, ond mwy am hynny yn y man). Erbyn Ebrill 28ain, yr oedd 37 ymgais wedi bod i losgi ail gartrefi.

Ar Ebrill 25/6ain, meddiannodd un ar bymtheg o aelodau Cymdeithas yr Iaith Gymraeg dŷ haf ger Aberystwyth am ddeuddeng awr; cyflwynodd y meddiannwyr ddatganiad wedi ei arwyddo ganddynt yn derbyn cyd-gyfrifoldeb am eu gweithred pan gyrhaeddodd yr heddlu, ond ar gais y perchenogion, ni ddygwyd cyhuddiadau yn erbyn yr ymgyrchwyr, a gadawsant hwythau'r tŷ yn wirfoddol. Aeth aelodau eraill i swyddfeydd asiantwyr tai yn Aberystwyth ac Aberaeron a mynd â deunydd yn hysbysebu ail gartrefi ar werth oddi yno. Y mae'r heddlu wedi holi'r rheini a gymerodd ran. Y gweithredoedd hyn yw'r cam cyntaf mewn ymgyrch yn erbyn asiantwyr tai sy'n gwerthu ail gartrefi, cwmniau sy'n berchen tai haf, ac awdurdodau lleol a allai fod yn prynu ail dai ar y farchnad agored (er bod y Gymdeithas yn cydnabod y problemau sydd ynghlwm wrth doriadau'r llywodraeth ganolog ar wariant).

GWEITHGAREDDAU'R HEDDLU CUDD YNG NGHYMRU

Yn ystod yr wythnos yn dechrau ar Fawrth 24ain cadwyd nifer o bobl yn y ddalfa, arestiwyd eraill a chwiliwyd nifer o dai yn yr hyn a ymddangosai fel ymgais ar ran yr heddlu i ddod o hyd i'r llosgwyr ("Operation Tân" chwedl y wasg). Uchafbwynt yr ymgyrch oedd nifer o gyrchoedd gyda'r wawr led-led Cymru fore Sul, Mawrth 30ain, a'r rheini wedi eu cyd-drefnu'n fanwl. Yr oedd gweithgareddau'r heddlu yn cynnwys chwilio cartrefi yn drylwyr a dwyn ymaith eiddo teuluol a phersonol na allai fod a wnelo ag ymgyrch losgi. Cafodd rhyw 50 o bobl eu harestio neu eu cadw yn y ddalfa am gyfnodau o hyd at dridiau heb i'w teuluoedd, eu cyfeillion na'u cyfreithwyr gael gwybod ym mha le y cedwid hwy. Yr oedd llawer o holi'r heddlu yn ystod y cyfnod hwn yn holi gwleidyddol neu bersonol, heb gysylltiad, mewn llawer achos, â'r



tanau. Ni ddychwelwyd llawer o'r eiddo a ddygwyd ymaith gan yr heddlu er mai dim ond pedwar o'r cyfanswm o hanner cant a gyhuddwyd ac a gadwyd yn y ddalfa. Yr oedd ymholiadau Heddlu Gogledd Cymru i'r ymgyrch losgi yn cynnwys galw o ddrws i ddrws ym Mlaenau Ffestiniog i holi ynglŷn â daliadau gwleidyddol pobl a'r modd y bu iddynt fwrw eu pleidlais yn yr etholiad cyffredinol diwethaf. Gosododd yr heddlu atalfeydd ar ffyrdd yng Ngogledd Cymru hefyd, yn enwedig liw nos. Y mae'n amlwg na allwn ddweud hyd yn hyn beth oedd llawn effaith gweithgareddau'r heddlu ar unigolion a'u teuluoedd, ac ni allwn ragdybio fod yr heddlu wedi cwblhau eu hymoliadau ychwaith gan fod gofyn i nifer o'r rheini a arestiwyd i ddychwelyd i swyddfa'r heddlu ddechrau mis Mai.

Yr oedd y rheini a gadwyd yn y ddalfa, a arestiwyd ac a chwiliwyd yn cynnwys aelodau o fudiadau cenedlaethol megis Adfer, Cofiwn a Mudiad Sosialaidd Gweriniaethol Cymru. Arestiwyd cenedlaetholwyr eraill yr oedd a wnelont â phrotestiadau yn erbyn yr arwisgiad hefyd. Cymerwyd rhai o aelodau 'r mudiad anarchaidd Cardiff Direct Action Movement i'r ddalfa a'u chwilio ar Fawrth 28ain ar ôl i fomiau gael eu gosod ym mhencadlysoedd y Ceidwadwyr yn Shotton a Chaerdydd. Nid dyma'r enghraifft gyntaf o weithgaredd ddyfal ar ran yr heddlu yng Nghymru mewn cysylltiad â materion gwleidyddol. Gwelwyd yr enghraifft fwyaf ddigywilydd mewn hanes diweddar o ddefnyddio'r heddlu yng Nghymru i ddibenion gwleidyddol ym 1969; gellir cymharu gweithgaredd yr heddlu bryd hynny â'r cyrchoedd diweddar hyn.

Ym 1968, penderfynodd y Llywodraeth Lafur i gynnal arwisgiad Charles, mab hynaf Brenhines Lloegr, yn Dywysog Cymru ar ei benblwydd yn 21ain oed, yn 1969. Protestiodd llawer o genedlaetholwyr yn gynddeiriog yn erbyn yr hyn a ymddangosai fel gŵr estron yn ysbeilio coron Tywysog Cymru. Er bod y mwyafrif o'r protestiadau yn rhai heddychlon, ffrwydrodd nifer o fomiau. Mudiad Amddiffyn Cymru oedd yn gyfrifol am y ffrwydriadau hyn, o dan arweiniad John Jenkins a ddedfrydwyd yn ddiweddarach i ddeng mlynedd o garchar. Erlyniwyd naw aelod o Fyddin Rhyddid Cymru yn Abertawe mewn achos a barodd bron ddau fis. Gwisgai'r FWA wisgoedd milwrol arbennig a chawsant lawer o gyhoeddusrwydd gan y wasg Brydeinig a'r wasg ryngwladol.

Gwnaeth eu llwyddiant mewn ennill cyhoeddusrwydd iddynt eu hunain waith yr heddlu yn llawer haws, ond gwelai llawer o bobl agwedd wleidyddol i'r achos. Llusgwyd y naw o'u gwelyau yn oriau mân y bore ar y 26ain o Chwefror 1969, ac fe'u cyhuddwyd o dan y Ddeddf Trefn Gyhoeddus ac am feddiannu gynnau. Daeth yr achos i ben yn Llys y Goron, Abertawe ar y laf o Orffennaf (diwrnod yr arwisiad) a hwn oedd yr achos hwyaf ond un yn hanes Cymru. Nododd y *New Statesman:*

*"Y mae'n dra pherthnasol i ofyn paham y daethpwyd â'r achos hwn - a olygai weithredu'r Ddeddf Trefn Gyhoeddus am yr ail waith mewn mwy na 30 mlynedd - pan y gwnaethpwyd; a oedd y dedfrydau mor drugarog ag yr hawliai'r barnwr (15 mis o garchar oedd y ddedfryd fwyaf eithafol) i'w cymharu â'r dedfrydau arferol ar gyfer meddiant "an-wleidyddol" o ynnau di-drwydded - a chan ystyried y misoedd yr oedd y cyhuddiedig eisoes wedi eu treulio yn y carchar. Dichon yr awgrymai'r ateb fod yma arddangosiad cyhoeddus o rym yn ogystal â chyfiawnder".*

Ond gweithgaredd gwleidyddol fwyaf amlwg yr heddlu yn ystod y cyfnod hwn oedd y defnydd eang ac amlwg a wnaethpwyd o'r heddlu cudd. Penodwyd Det. Sup. Jock Wilson o Scotland Yard ym 1969 i arolygu'r trefniadau diogelwch yn ystod cyfnod yr arwisgiad; sefydlodd yntau ei bencadlys yn yr Amwythig. Mewn gwirionedd, yr oedd ditectyddion cyffredin yn ogystal ag aelodau o'r Gangen Arbennig yn rhan o'r heddlu cudd. Daeth eu gweithgaredd i uchafbwynt yn ystod wythnos yr arwisgiad ei hun. Cadwyd gwyliadwraeth 24 awr ar ddwsenni o genedlaetholwyr led-led y wlad. Golygai hyn chwe swyddog ar gyfer pob cenedlaetholwr, gyda phob pâr yn gweithio wyth awr ar y tro. Rhoddwyd rhif arbennig i bob person dan wyliadwraeth a throsglwyddid adroddiadau ar symudiadau'r "eithafwyr" hyn i'r pencadlys drwy deleffon mewnol. Byddai'r gweithgaredd hwn yn gwbl agored, ac yn fynych ni welai rhai o'r rheini o dan wyliadwriaeth reswm yn y byd dros yrru dau gar i bobman, felly gadawent i'r heddlu fynd â hwy i ben eu taith. Yn ôl un amcangyfrif yr oedd 200 o bobl o dan wyliadwraeth, gan gynnwys Gwynfor Evans, AS Caerfyrddin ar y pryd. Yng ngylch Aberystwyth lle mynychodd y tywysog y coleg am wyth wythnos, yr oedd y dref yn frith o heddlu a cheisiodd un *agent provocateur*, yr honnwyd ei fod yn gysylltiedig â naill ai'r heddlu neu'r gwasanaeth diogelwch, wthio llwyth o ffrwydron ar rai cenedlaetholwyr o fyfyrwyr drwy ddichell.

Y mae'r cof am y fath dramgwyddo agored a chyhoeddus ar ryddid yr unigolyn gan yr heddlu ym 1969 yn egluro i raddau paham y mynegwyd y fath bryder wedi cyrchoedd diweddaraf yr heddlu. Fel y dywedodd golygydd *Y Cymro* ar yr 8fed o Ebrill:

*"Mae'n amlwg nad oedd rhithyn o dystiolaeth yn erbyn y mwyafrif a bod peth sail o hyd i un o slogannau 1969, 'Mae'n drosedd bod yn Gymro'".*

Yn ystod y 1970au, mynegwyd pryder ynglŷn â dau fater penodol a oedd yn bygwth cyfyngu ar hawliau dinesig rhai cenedlaetholwyr. Yn gyntaf, y defnydd parod a wneid o'r cyhuddiad cynllwynio yn erbyn protestwyr dros yr iaith, ac yn ail, ymyrraeth yr heddlu wrth ddewis rheithgor yn ystod yr achos yn Llys y Goron yn erbyn dau aelod blaenllaw o Gymdeithas yr Iaith Gymraeg. Cynhaliwyd dau achos cynllwynio ym 1971 ac un arall ym 1978. Y brif feirniadaeth ar y cyhuddiad cynllwynio yw y rhydd ddwy fantais i'r erlyniaeth. Yn gyntaf, y



mae'r ddedfryd sy'n bosibl am gynllwynio i weithredu yn drymach na'r un am y weithred ei hun; yn eilbeth, rhydd dragwyddol heol i'r heddlu i rwydo pwy a fynnant. Ar ben hynny, ymddangosai fel pe bai'r rheini a erlynwyd wedi eu dewis ar sail eu safle o fewn eu mudiad, cymdeithas neu undeb llafur yn hytrach nag oherwydd eu bod o anghenraid yn euog o drosedd benodol.

Methodd y rheithgor â chytuno ar ddedfryd yn ystod achos cynllwynio Gorffennaf 1978 yn erbyn dau o swyddogion Cymdeithas yr Iaith Gymraeg a chynhaliwyd ail brawf ym mis Tachwedd 1978. Honnodd y diffiynyddion yn ystod yr achos cyntaf fod swyddog o'r heddlu wedi arwyddo i'r erlynydd pa reithwyr y dylid eu gwrthwynebu, ond adlewyrchai'r rhestr derfynol o enwau boblogaeth Gymreig cylch Caerfyrddin: Williams, Hughes, James, Phillips, Roberts, Griffiths, Jones, Matthews, Davies, Williams, Williams a Williams. Cynnwys y rhestr derfynol o reithwyr ar gyfer yr ail achos oedd: Andrews, Carlisle, Pringle, Hanson, Allen, Amner, Birdwood, Adams, Day, Curwood a Brooks. Fel yr adroddodd y *New Statesman* ar y 7fed Rhagfyr 1978:

*"Yr oedd y duedd yn achos Caerfyrddin yn llai diniwed, gan mai achos lled-wleidyddol oedd hwn ynglŷn â'r iaith Gymraeg. Mewn achos blaenorol - gyda rheithgor a oedd bron i gyd yn Gymry Gymraeg - methwyd â chytuno ar ddedfryd, a hwn oedd yr ail achos. Gwysiwyd deugain o reithwyr yn y 'panel' ar gyfer yr achos newydd; dim ond 40% o'r rheini oedd â chyfenw Cymreig. SIAWNS O UN MEWN DENG MIL SYDD I GANRAN MOR ISEL GAEL EU DETHOL AR ANTUR ... Yn siar, peth hynod, mewn achos o gryn sensitifrwydd gwleidyddol, yw canfod fod dethol y rheithgor yn mwylo rhywrai a wnai eu ffortiwn pe defnyddient eu gallu i oresgyn ffawd ar y cae ras".*

Bum mis yn ddiweddarach, cydnabyddwyd yn swyddogol fod ymyrraeth wedi bod ar y rheithgor. Derbyniodd Dafydd Elis Thomas, A.S. Meirionnydd, lythyr oddi wrth yr Arglwydd Belstead o'r Swyddfa Gartref:

*"Derbyniodd yr Ysgrifennydd Cartref adroddiad gan Brif Gwnstabl Heddlu Dyfed-Powys, a benododd swyddog hŷn i ymchwilio i'r mater. Dangosodd yr ymchwiliad ei bod hi'n wir i swyddog heddlu o safle is, a weithredodd heb awdurdod, sicrhau copi o restr y rheithwyr awr cyn dechrau'r ail achos ac ymgymryd ag archwiliad cyfyngedig. Ni ddatgelodd yr ymchwiliad hwn unrhyw wybodaeth a oedd yn berthnasol i naill ai'r erlyniad neu'r amddiffyniad, ac ni weithredwyd ymhellach".*

Y mae'n amlwg nad yw gweithgaredd wleidyddol gan yr heddlu yng Nghymru yn ffenomenon newydd, ond nid yw hynny'n gwneud y fath ymddygiad ronyn yn fwy derbyniol, fel y dengys y dystiolaeth a gyflwynwn ynglŷn â gweithgareddau diweddar yr heddlu.

Dywedodd llawer o bobl y teimlant y gwnaed drwg i'w henw da yn eu cymunedau lleol ac yn eu gwaith. Collodd un person ei swydd oherwydd iddo gael ei arestio, er na chafodd ei gyhuddo ac i ddyddiad ei fechniaeth gael ei ollwng. Mae llawer yn poeni y cant eu labelu fel "eithafwr", fel a ddigwyddodd i rai cenedlaetholwyr yn ystod cyrch yr heddlu ym 1969, a gwyddant am ba hyd y pery label o'r fath. Sefydlwyd y cyfryw ddulliau o weithredu gan yr heddlu eisoes o dan y Ddeddf Atal Brawychiaeth ac fe'i gwneir yn llawer haws iddynt os a phan estynnir y pwerau yr arfaethir eu rhoddi i'r heddlu o dan y Mesur Cyfiawnder Troseddol (Yr Alban) i Loegr a Chymru.



ENGHRAIFFT O HOLEB

1. Ar ba ddyddiad(au) ac am faint o'r gloch y daeth yr heddlu atoch?
   *Bore Sul, 30 Mawrth 1980 am 6 a.m.*

2. Ym mhla le y digwyddodd hyn, e.e. gwaith, stryd, cartref etc.
   *Cartref*

3. A oedd yr heddlu yn eu hiwnifform a/neu mewn dillad arferol, a faint a heddlu oedd yna,
   *Un-ar-ddeg o heddlu, dau neu dri mewn iwnifform*

4. A gynigwyd tystiolaeth mae heddlu oeddent? neu a roddwyd tystiolaeth mai heddlu oeddent os y gwnaethoch ofyn am hynny ?
   *Dangosodd un Rhingyll ei gerdyn adnabod*

5. A wnaeth yr heddlu roi sail am eu hymweliad, e.e. gweithgareddau arbennig/troseddau/deddfwriaeth e.e. Deddf Rhwystro Terfysgaeth etc.
   *"Arrest" am "ddifrod troseddol" - y wraig a fi.*

6. A gawsoch eich arestio neu eich 'gwahodd i gynorthwyo'r heddlu gyda'u hymchwiliadau'
   *Ein harestio.*

7. A ddywedwyd wrthych y byddech yn cael eich arestio os y byddech yn gwrthod gwahoddiad yr heddlu i fynd gyda hwy yn wirfoddol?
   *Dim llawer o ddewis!*

8. A roddwyd unrhyw bwysau arnoch i'ch annog i fynd gyda'r heddlu i orsaf yr heddlu, Os do, rhowch fanylion byr.
   *Gorfodaeth!*

9. A oedd teulu/cyfeillion/cydweithwyr yn bresennol yn ystod ymweliad yr heddlu? Os oedd, sut y cawsant eu trin gan yr heddlu?
   *Dim ond y wraig, a'r 3 plentyn yn ddiweddarach.*

10. A gafodd eich car/llety/eiddo arall ei chwilio, Os do, a ddangoswyd gwarant.?
    *Archwiliwyd yn fawr iawn, iawn, y tŷ, adeiladau buenes ac aethpwyd â'r ddau gar ymaith. Dangoswyd gwarant.*

11. A aethpwyd â pheth o'ch eiddo ymaith, Os do, beth a phryd, Os y cafodd ei ddychwelyd, rhowch fanylion am y dyddiad a'i gyflwr .
    *Tua 50 o eitemau, y dydd hm. Dim ond 4 eitem a ddychwelwyd hyd yn hyn (7 Ebrill 1980).*

12. A chwiliwyd eich person? Os do, dywedwch (i) cyn neu ar ôl eich arestio; (ii) ble; (iii) a ddangoswyd gwarant?
*Do; ar ôl arestio; yn y tŷ ac wedyn yn Swyddfa'r Heddlu X, ni ddangoswyd gwarant arbennig i chwilio'r person.*

13. A aethpwyd â chi i orsaf yr heddlu? Os do, ble ac am faint o'r gloch ac ar ba ddyddiad?
*X tua 7.30 a.m. fore Sul, Mawrth 30; yna ymlaen i Y.*

14. A roddodd yr heddlu wybod i unrhyw un o'ch ffrindiau/teulu a oedd yn bresennol ymhle y cedwid chi? A oedd y wybodaeth honno'n gywir?
*Na. Cafodd y wraig wybod, ond neb o'r teulu (gan ei bod hi hefyd dan glo, ni allai roi'r wybodaeth i neb arall).*

15. A ddywedodd yr heddlu wrthych am unrhyw hawliau a allai fod gennych yn ystod cyfnod eich cadw? Os do, beth a ddywedwyd wrthych a phryd?
*Dywedwyd bod hawl i gysylltu ag un person ond eu bod nhw (yr heddlu) yn diddymu'r hawl am y byddai'n "impede the course of justice!!"*

16. A wnaethoch gais am gael cysylltu â theulu/cyfeillion/cyfreithiwr ar y ffôn ar unrhyw adeg? Os do, dywedwch pryd, h.y. cyn a/neu yn ngorsaf yr heddlu?
*Do (1) yn y tŷ. Gwrthodwyd i mi gysylltu â'm gwraig (a oedd yn y gwelu) cyn ymadael. (2) Yn X. Gwrthodwyd (gw. ateb 15).*

17. Os na chaniatawyd y fath gysylltu, pa reswm(resymau) a roddwyd a phryd?
*Gwrthodwyd/anwybyddwyd. Geiriau fel: "O, mae hynny yn mwylo'r heddlu. Dim byd i'w wneud â ni. Cewch eich cymryd oddiyma pan fyddan nhw'n penderfynu".*

18. A wnaeth eich teulu/cyfeillion/cyfreithiwr ymgais i gysylltu â chi ar y ffon neu mewn unrhyw ddull arall yng ngorsaf yr heddlu? Os do, a ganiatawyd iddynt wneud hynny a phryd?
*Gwnaed sawl ymgais gan fy mrawd a rhai cyfreithwyr, i gyd yn aflwyddiannus.*

19. Os na chaniatawyd i deulu/cyfeillion/cyfreithiwr gysylltu â chi, pa reswm(au) a roddwyd, A ddywedodd yr heddlu wrthych am unrhyw gais gan y fath bobl i gysylltu â chi?
*Ni ddywedwyd wrthyf ddim oll. Ni wyddwn fod fy ngwraig dan glo, hyd yn oed. (Nid oeddwn yn deall bod 'arestio' yn golygu o angenrheidrwydd "cadw dan glo".*

20. A gawsoch eich cadw mewn ystafell/cell/man arall wedi ei chloi/heb ei chloi? Phowch fanylion.
*Cell wedi ei chloi, tan tua 7.30 p.m. nos Lun, Mawrth 31.*



21. Os na arestiwyd chi, a wnaethoch gais i adael yn ystod y cyfnod y'ch cadwyd, ac ar ôl faint o amser? Os do, beth oedd ymateb yr heddlu ibh cais?
—

22. Pa gyfleusterau a roddwyd i chi yng ngorsaf yr heddlu yn ystod cyfnod eich cadw? e.e. bwyd, defnyddiau ysgrifennu, ystafell?
*Bwyd. Dim byd arall, dim ond 2 flanced wedi torri. Cymerwyd fy wats, fy ngwregys ac yn X, fy esgidiau.*

23. A ofynnwyd i chi ddatgan eich symudiadau ar adegau arbennig a/neu gofyn am enwau a/neu gofyn a oeddech yn adnabod pobl arbennig a enwyd gan yr heddlu? A ofynnwyd a oeddech yn aelod o blaid wleidyddol arbennig neu fudiad? Pa gwestiynnau eraill a ofynnwyd (manylion byr)?
*Cefais fy holi'n fawl iawn (tua 9.00 - 9.30 p.m. nos Lun, Mawrth 31) yn X gan Dditeotif a Rhingyll, ynglŷn â (a) bob math o ddogfennau/llythyrau/cyfeiriadau a veleant yn fy swyddfa; (b) fy symudiadau diweddar, ar droed ac yn y car, yn arbennig yr wythnos cynt, a'r nos Sadwrn (Mawrth 39). Ni soniwyd am Blaid Cymru, ond holwyd yn fawl iawn am fy ngwybodaeth am y mudiad "Cofiwn".*

24. A gawsoch eich bygwth os y methasoch gydweithredu yn ystod cyfnod eich cadw gan yr heddlu? Os do, beth oedd ffurf y bygythiadau?
*Cefais fy mygwth yn sarhaus iawn gan swyddog hyn. Dywedodd y cawn fy ngharcharu am oes ac y cawn 'the most unforgettable interrogation of your life' ar ôl fy nghymryd i gell 'mewn adeilad cyfagos' (a rhoi'r cyfan mewn ffordd neis!). Taflwyd fy sbectol ar y gwely; taflodd 2 ohonynt fi ar y gwely pan wrthodais dynnu fy esgidiau. Digwyddodd hyn yn X tua 9 fore Sul, Mawrth 30.*

25. A fu'n rhaid i chi ddioddef bwysau corfforol a/neu emosiynol? Os do, rhowch fanylion a disgrifiwch yn fyr, ac ar ba adeg(au) yn ystod eich cadw?

26. A awgrymodd yr heddlu y byddech yn cael eich cyhuddo? Os do, ac ar ba adeg?
*Awgrymwyd yn gryf iawn iawn y cawn fy nghyhuddo ar yr adeg yma ond NI chefais fy nghyhuddo mewn gwirionedd.*

27. A gawsoch eich cyhuddo o drosedd? Os do, beth oedd y cyhuddiad a phryd y gwnaed hynny?

28. Os yw'r ateb i (2) neu (27) uchod yn gadarnhaol, a oedd y cyhuddiad terfynol yn ymwneud a sail wreiddiol yr heddlu am eich cadw e.e. cyhuddiad yn ymwneud â chyffuriau ar ôl ymholiad gwreiddiol

ynglŷn â'r ymgyrch losgi?
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29. A roddwyd mechniaeth i chi os y'ch harestiwyd a'ch cyhuddo? (i) A wnaeth yr heddlu gynnig mechniaeth neu (ii) a fu'n rhaid i chi/eich teulu/cyfeillion/cyfreithiwr ofyn am fechniaeth?
*Na*

30. Os na chawsoch eich cyhuddo, a roddwyd unrhyw amodau cyn i chi gael eich rhyddhau, e.e. cytuno i fynd yn rheolaidd i swyddfa'r heddlu?
*Na - dim amodau o gwbl*

31. Ar ba ddyddiad ac am faint o'r gloch y cawsoch eich rhyddhau?
*Tua 9.30 p.m. nos Lun, Mawrth 3l.*

32. A gynigwyd unrhyw gyfleusterau i chi gan yr heddlu ar ôl i chi gael eich rhyddhau? e.e. eich cario adref os oedd angen.
*Cefais gynnig lifft, ond gwrthodais gan fod fy mrawd wedi cyrraedd erbyn hyn. (Cafodd wybod fy mod yn X trwy fy ngwraig, a oedd wedi ei rhyddhau erbyn hyn).*

33. A ystyriwch y cyfyngwyd ar eich hawliau suful drwy ymweliad yr heddlu/eich cadw ganddynt? Os ydych, sut?
*Ydw. Roeddwn yn gwbl ddieuog ac nid oedd gan yr heddlu ddim tystiolaeth o gwbl yn fy erbyn. Mae'n amlwg mai eu bwriad nhw oedd casglu tystiolaeth ar ôl arestio. Mae hyn yn gamddefnydd erchyll o "arest". Mae'n golygu fod gan yr heddlu yr hawl i gloi unrhyw un mewn, unrhyw bryd (ac archwilio ei dŷ heb ganiatad).*

34. Os yw'r ateb i (33) uchod yn gadarnhaol, (i) a ydych yn bwriadu rhoi cwyn ffurfiol yn erbyn yr heddlu (ii) a ydych eisoes wedi gwneud cwyn ffurfiol (iii) a oes gennych farn ar y drefniadaeth parthed cwyn ffurfiol yn erbyn yr heddlu.
*(i) ydwyf (ii) ydwyf.*

35. A ddymunwch i'ch atebion i'r arolwg gael eu rhoddi i'ch A.S.?
*Iawn.*

36. A ddymunwch i Dafydd Elis Thomas weld a defnyddio eich ymateb (na chaiff ei gyhoeddi) i'r arolwg hwn?
*Croeso!!*



*ENGHRAIFFT O LYTHYR*

*"Rwy'n ysgrifennu atoch i gwyno am ymddygiad yr heddlu yn ystod y 'raids' a gymerodd le yn ystod y pemwythnos diwethaf. Cefais fy arestio yn gynnar iawn - tua 5 o gloch y bore - ar y 30ain Mawrth, ac ni chefais fy rhyddhau hyd y prynhawn Mawrth canlynol, 1 Ebrill. Cefais fy arestio mewn dull 'spectacular' iawn, gyda 4-6 o heddlu mewn gwisg arferol yn ogystal â hedd-fenyw mewn iwnifform yn rhuthro i mewn i fy ystafell welly ar ôl torri i mewn i'r fflat drwy dri o ddrysau a oedd ar glo.*

*"Dywedwyd wrthyf am wisgo amdanaf a thrwy'r adeg roedd yr heddlu yn mynd ac yn dod i fewn ac allan o'r ystafell. Trwy gydol yr amser roedd yna 4 ohonynt yn fy ystafell wely. Mynnais gael gweld gwarant, ac yn y diwedd dangoswyd un i mi, yn dweud eu bod yn chwilota'r fflat am fy mod i wedi achosi £250,000 o ddifrod i eiddo.*

*"Dechreuwyd chwilota yn y fflat tra roeddwn i yno ac rwy'n deall eu bod wedi bod wrthi yn chwilota yno am ddiwrnod cyfan ar ol i mi gael fy nghludo i X. Cymerwyd fy mhyrsiau (2) a bag ysgwydd yn ogystal â thri dyddiadur oddi arnaf cyn i mi adael y fflat. Ni chefais daleb amdanynt.*

*"Chwilotwyd fi yn X. Gofynnwyd i mi roi enw un person y gallwn gysylltu ag ef, a phan roddais enw, dywedwyd wrthyf na chysylltid â'r person hwnw nes buasai'r ymholiadau wedi dod i ben. Rhoddwyd fi mewn cell ac yna daeth swyddog hyn i mewn, dywedodd wrthyf mewn ffordd gas iawn i sefyll yn erbyn y wal. Rhoddodd araith hir i mi ar faint yr oedd yn casau terfysgwyr, ail-adroddodd rai o'r cynlluniau a oedd wedi eu trefnu yng nghynhadledd Cofiwn ar y dydd Sadwrn ym Machynlleth, gan ofyn i mi os oeddynt yn canu cloch. Dywedwyd wrthyf mae terfysgwraig oeddwn ac felly doedd gennyf ddim hawliau. Dywedwyd wrthyf hefyd fy mod yn mynd i gael fy holi am gyfnod hir iawn a buasai pethau yn mynd yn gas iawn cyn y diwedd. Yna cludwyd fi i Y a rhoddwyd fi mewn cell yno, ac ni chefais wybod beth oedd yn digwydd hyd bnawn Llun. Cefais fy holi yn y gell, ac yna cefais fy holi eto nos Lun. Cludwyd fi yn ôl fore Mawrth i X gan bennaeth yr ymchwiliadau, siwrnai gas iawn wrth iddo farnu holl aelodau 'Cofiwn'. Cefais fy holi eto yn X a'm gosod yn ôl mewn cell ac yna daeth swyddog hyn i mewn i ddweud wrthyf fy mod yn cael fy rhyddhau. Gofynnais beth oedd yn digwydd i fy nghariad a gafodd ei arestio gyda fi a dywedwyd wrthyf ei fod yn mynd i gael ei gyhuddo ac y buasai i ffordd am 12 mlynedd o leiaf. Nid oedd hyn yn wir. Mynnais gael cludiant yn ol i Z. A phan dde yn ôl i'r fflat, gwelais fod y lle mewn cyflwr annhrefnus dros ben, gyda blaen y lle tan wedi ei dynnu yn y gegin a phardduwm mhobman. Roedd hi'n amhosibl defnyddio'r llofft am dri diwrnod nes inni allu gorffen clirio'r llanastr.*

*"Rwyf ers hynny wedi sylwi bod llawer o'm heiddo personol i yn ogystal ag eiddo Cofiwn wedi ei gymryd o'r fflat.*

*"O'm heiddo personol i mae fy nyddiaduron (3), siec,*

*llythyrau, posteri, baner, rucksack, tapiau, llyfrau a lluniau wedi eu cymeryd.*

*"O eiddo 'Cofiwn' mae gwerth dros £400 o posteri, bathodynnau, taflenni, pob math o lenyddiaeth, lluniau ar flociau, teipiadur, llwythi o ffeiliau etc. etc. Rydym wedi ysgrifennu at bennaeth yr heddlu yn y gogledd (yr un sy'n gyfrifol am ymchwilio i mewn i'r tannau) yn gofyn am yr eiddo yma'n ôl. Roeddem yn credu ei fod yn cael ei gadw yn W, felly rydym wedi bod yno yn gweud ymholiadau. Ond croeso oeraidd iawn gawsom ni gan yr heddlu ar y ddeag yno.*

*"Y prif burpas dros i mi ysgrifennu atoch ydyw am fy nod yn poeni am yr eiddo yma. Buaswn yn ddiolchgar iawn os gallech chi edrych i mewn i lle mae'n cael ei gadw a gweud cais i'r heddlu i ddod a'r cwbl yn ôl i'r fflat. Gan obeithio y cewch chi fwy o lwc na chefais i yn hyn o beth".*



# DAMCANIAETH GYFREITHIOL AC ARFERION YR HEDDLU

Lluniwyd yr holiadur i sicrhau gwybodaeth ynglŷn â phrif elfennau pwerau sydd gan yr heddlu cyn rhoi neb ar brawf, pwerau a oedd yn amlwg yn Operation Tân. Yr oedd amser yn elfen holl-bwysig yn y modd y trefnwyd yr arolwg, gan i'r grŵp gytuno y dylai'r adroddiad ymddangos cyn gynted ag oedd modd. Effeithiodd hyn o reidrwydd ar ein methodoleg ac ar gynnwys yr adroddiad terfynol. Nid oedd rhestr barod o'r bobl yr effeithwyd arnynt gan ymgyrch yr heddlu ar gael; lluniasom restr gyda chymorth rhwydweithiau cymdeithasol a gwleidyddol led-led Cymru. Ar Ebrill 3ydd (ddeuddydd ar ôl i'r grŵp gyfarfod am y tro cyntaf) danfonasom lythyr a holiadur at 45 o bobl y gwyddem i'r heddlu ymweld â hwy yn ystod eu hymholiadau (danfonwyd yr un deunydd at nifer o bobl eraill y clywsom am eu profiadau yn ddiweddarach). Danfonwyd yr ohebiaeth yn Gymraeg neu yn Saesneg, yn ôl p'run oedd iaith gyntaf yr unigolyn, a chynhwyswyd copi arall yn y gobaith y trosglwyddid hwnnw i rywun arall yr effeithwyd arno, lle'r oedd hynny yn briodol. Ni ddanfonwyd llythyron i ddilyn ymlaen ar hynny, er y byddai gwaith arferol ar arolwg mewn gwyddor gymdeithasol wedi cynnwys o leiaf un llythyr o'r fath.

Dychwelwyd y llythyron drwy law A.S. parod ei gymwynas ac fe'u cadwyd yn niogell cyfreithiwr tan i ni gychwyn ar ein dadansoddiad. Erbyn Ebrill 30ain, y diwrnod y cwblhawyd yr adroddiad, cawsai 43 o holiaduron eu dychwelyd a chawsom addewid am fwy eto. Y mae'r ffigwr hwn yn cynrychioli ymateb o 82% oddi wrth y 52 o bobl y cysylltwyd â hwy yn wreiddiol. Yr ydym o'r farn fod graddfa mor uchel o ymateb mewn amser mor fyr yn adlewyrchu teimladau cryf y rheini y daethom i gysylltiad â hwy.

Atgynhyrchwyd dau adroddiad cyflawn ar ddechrau'r adran hon oblegid carem i'r darllenwyr gael cyfle i amgyffred yn llawnach beth oedd hyd a lled gweithgareddau'r heddlu. Wedi hynny, byddwn yn edrych yn fanwl ar y gyfraith o safbwynt pwerau'r heddlu ac yn adrodd y profiadau y cawsom wybod amdanynt.

CADW YN Y DDALFA AC ARESTIO

Y mae'r gyfraith ar arestio yn ddryswch cymhleth. Fel y dywedodd yr Athro de Smith, cyfreithiwr cyfansoddiadol blaenllaw: "Yn anffodus, nid oes yr un gangen o Gyfraith Lloegr sydd yn fwy tywyll a mwy cymhleth na honno sydd yn ymwneud â phwerau arestio". Yn ymarferol,

y mae gan yr heddlu bwerau eang i arestio, a chan mai peth anghyffredin iawn yw hi i'r dinesydd i wybod beth yw'r pwerau hynny, pur anaml y bydd modd iddo herio dilysrwydd yr arestiad ar y pryd. (Dyma bwynt y mae Comisiynydd yr Heddlu Metropolitaidd, Syr David McNee yn ymdrin yn helaethach ag ef yn ei dystiolaeth i'r Comisiwn Brenhinol ar Drefniadaeth Droseddol a drafodir gennym yn yr adran ar batrymau heddgeidwadaeth).

Rheol gyffredinol ynglŷn ag arestio yw fod yn rhaid i ymyrraeth yr heddlu â rhyddid yr unigolyn fod yn seiliedig ar ryw reol gyfreithiol bositif cyn y bydd yn gyfreithlon. Felly y mae arestiad yn anghyfreithlon *prima facie* a rhaid ei gyfiawnhau o dan ryw awdurdod cyfreithiol (e.e. Deddf Difrod Troseddol 1971); nid yw "lles y cyhoedd" yn sail ddigonol. Rhaid i heddgeidwad fod â lle rhesymol i ddrwgdybio cyn arestio neb. Nid yw hyn yn golygu fod yn rhaid bod digon o dystiolaeth ar gael i greu achos *prima facie*. Ond ar yr un pryd (neu dyna'r ddamcaniaeth, o leiaf) nid arestio yw cam cyntaf neu gam rhagarweiniol ymholiad gan yr heddlu, ac ni ellir ei ddefnyddio fel dull o gadw unigolyn yn y ddalfa tra sicrheir gwybodaeth.

Beth yw arestiad? Dylai'r person sy'n arestio egluro wrth y carcharor beth yw'r rhesymau am ei arestio ar adeg yr arestiad onid ydyw amgylchiadau'n golygu na ddylai'r person a arestiwyd wybod natur gyffredinol y drosedd honedig. Yn *Christie v Leachinsky (1947)* cyhoeddodd Tŷ'r Arglwyddi pan fo heddgeidwad yn arestio heb warant ar sail drwgdybiaeth resymol fod yn rhaid iddo hysbysu'r carcharor o'r gwir reswm am ei arestio. Ni raid iddo ddefnyddio iaith fanwl-gywir neu dechnegol, ond dylid egluro i'r carcharor sylwedd y rheswm dros ei gadw yn y ddalfa. Os na wneir hynny, gall yr heddgeidwad fod yn agored i gyhuddiad o garcharu ar gam.

Rheolir cyfraith arestio'r dydd heddiw gan ystatud: deddfir gan adran 2 o'r Ddeddf Cyfraith Troseddau y gall heddgeidwad arestio heb warant pan fydd y drosedd o dan sylw yn un sy'n dwyn cosb o bum mlynedd o garchar. Daw difrod troseddol o fewn y categori hwn, a dyna'r tramgwydd y drwgdybid y rhan fwyaf o'r bobl a ymatebodd i'r arolwg hwn ohono. Wrth gwrs, ni ddefnyddir arestio ddim ond i ddod â phobl ger bron llys. Fel y dengys tystiolaeth yr arolwg, ni chyhuddwyd yr un o'r atebwyr a arestiwyd neu a gadwyd yn y ddalfa o ddifrod troseddol (sydd yn cynnwys drwg-losgi) ond fe'u holwyd bob un. Holwyd hyd yn oed berthnasau nas harestiwyd yn yr hyn a ymddengys oedd yn ymgyrch i hel gwybodaeth.

Beth yw ystyr "cynorthwyo'r heddlu â'u hymholiadau"? Byrdwn y farn gyfreithol am hyn yw fod person a â i swyddfa'r heddlu yn wirfoddol er mwyn ateb cwestiynau yn rhydd i ymadael hyd oni wneir yn glir iddo ef neu hi nad dyna'r sefyllfa mwyach. Yn y gyfraith, nid oes man hanner ffordd rhwng rhyddid dilyffethair y goddrych



ac arestiad. Cyn gynted ag yr atelir person, neu y dywedir wrtho yr atelir ef rhag ymadael, y mae'r person hwnnw wedi ei arestio. Yn ddamcaniaethol, oni fedr yr heddlu ddangos fod yna sail resymol dros arestio, y maent yn agored i achos o garcharu ar gam. Felly nid oes y fath beth â'r pwer i gadw neb yn y ddalfa i'w holi. Meddai'r Arglwydd Ustus Lawton yn *Lemsatef* ym 1977:

> *"Rhaid deall yn glir nad oes gan naill ai swyddogion y doll dramor na swyddogion yr heddlu yr wŷ hawl i gadw rhywun yn y ddalfa i'r diben o'u cymell i'w cynorthwyo hwy gyda'u hymholiadau. Y mae swyddogion heddlu naill ai'n arestio am dramgwydd neu nid ydynt yn cadw yn y ddalfa o gwbl. Y mae'r gyfraith yn glir ... Nid oes mo'r fath dramgwydd â 'cynorthwyo'r heddlu gyda'u hymholiadau' (sic). Daeth yr ymadrodd hwn yn gyffredin yn bennaf oherwydd yr angen i'r wasg fod yn ofalus ynglŷn â disgrifio rhywun sydd wedi ei arestio ond heb ei gyhuddo'n ffurfiol. Os yw'r syniad yn lledaenu ymhlith naill ai swyddogion y doll neu swyddogion yr heddlu y gallant arestio pobl neu eu cadw yn y ddalfa i'r diben neilltuol hwn, yna gorau po gyntaf y cânt wared o'r syniad hwnnw".*

Dichon fod yr Arglwydd Lawton yn gywir o safbwynt y gyfraith, ond mae'r sefyllfa fel y mae hi yn ymddangos braidd yn fwy cymhleth, fel y dangosodd adroddiadau'r arolwg.

Arestiwyd y mwyafrif rhwng 4.30 a.m. a 6 a.m. fore Sul, Mawrth 30ain. Arestiwyd eraill wrth eu gwaith, ar y stryd, yng nghartrefi cyfeillion. Amrywiai nifer yr heddgeidwaid a oedd yn bresennol adeg arestio rhywun rhwng 4 a 11 (yn yr achos olaf, i arestio gŵr canol-oed a'i wraig yn eu cartref). Ar sail adroddiadau'r arolwg, yr ydym wedi sefydlu'r ffaith yr arestiwyd y rhan fwyaf o dan Ddeddf Difrod Troseddol 1971 "ar ddrwgdybiaeth o ddrwg-losgi" neu "ar ddrwgdybiaeth o ddifrod troseddol" neu "yng nghyswllt y tanau mewn tai haf." Eglurwyd yn fanwl wrth rai pobl:

> *"Dywedodd rhingyll wrthyf fy mod yn cael fy arestio ynglŷn â pheri gwerth £¾ milium o ddifrod i dai haf"*

neu

> *"Dywedwyd wrthyf fy mod yn frawychwr ac fy mod i wedi peri gwerth £250,000 o ddifrod i eiddo"*

neu

> *"Yn y man, pan gefais fy arestio (ar ôl tair awr o ohwilio ) dywedwyd wrthyf fod a wnelo'r mater â thai haf".*

Dywedwyd wrth eraill heb iddynt amgyffred arwyddocâd y datganiad:

> *"Crybwyllwyd arestio - ni roddwyd un rheswm hyd y gallaf gofio, yn eiriau, doeddwn i ddim yn deall beth oedd yn digwydd".*

neu

*"Y geiriau cyntaf a ynganwyd wrth i mi agor y drws am 5.30 a.m. oedd 'Yr ydym yn eich arestio. Yr ydym am chwilio'r tŷ'. Ni fedraf gofio a gyfeiriwyd at dramgwydd neilltuol".*

Y mae eraill yn bendant na roddwyd rhesymau iddynt:

*"Y cwbl y medrwn ei gael ganddynt oedd 'Mae gennym warant i chwilio, ac rydym yn edrych am unrhyw beth'".*

neu

*"Doeddwn i ddim yn deall ar ba sail yr oedd yr heddlu'n fy nghadw"*, meddai darlithydd, ac yr oedd yn amlwg o ddarllen ei ffurflen na ddywedasid wrtho. Arestiwyd cyfanswm o bedwar o'r bobl a ddanfonodd wybodaeth atom heb i'r heddlu gynnig yr un rheswm iddynt am hynny.

Cafodd unarddeg o bobl "eu gwahodd i gynorthwyo'r heddlu gyda'u hymholiadau", neu "eu gwahodd i gynorthwyo'r heddlu yn yr orsaf". Arestiwyd y rheini a wrthodai gyd-weithredu ar unwaith. O blith y pedwar a gytunodd:

*"Gofynnwyd i mi 'oes ots gennych ddod i'r swyddfa heddlu leol i ateb nifer o gwestiynau'. Cytunais gan feddwl gorau po gyntaf y caf hyn drosodd i mi gael mynd yn ôl i 'ngwely"* (dim ond am awr a 10 munud y buasai yn ei wely).

Mam yn dal i fwydo baban ar y fron oedd y trydydd person, ac aethpwyd â hi i'r swyddfa heddlu i'w holi, ynghyd â'i baban 4 mis oed. Bu yno am ddwy awr.

Yn ymarferol, ystyr "gwahoddiad" yw math o garchariad gwirfoddol; unwaith y bydd dyn yn swyddfa'r heddlu, ychydig iawn o allu sydd gan yr unigolyn i ddewis ymadael â'r lle, er ei fod, yn ddamcaniaethol, yn rhydd i fynd. Pan ofynnodd y rheini a aeth o'u gwirfodd i'r orsaf gyda'r heddlu am gael mynd, gwrthodwyd caniatâd iddynt:

*"Dywedwyd wrthyf na chawn fynd adref nes eu bod wedi eu bodloni eu hunain ynglŷn â'm alibi".* (Dau o'r rhai a ddrwgdybid).

neu

*"Gofynnais sawl gwaith am ba hyd y byddwn yno. Yr unig ateb a gefais oedd fod yr Arolygydd yn 'dod i mewn' i ofyn nifer o gwestiynau i mi".*

Bwydodd y fam ei phlentyn ar y fron tra'r oedd hi yn swyddfa'r heddlu, a theimlai y gallai anghysur yr heddlu ynghyd â mynych alwadau ffôn ei chyfreithiwr i swyddfa'r heddlu fod wedi prysuro ei hymadawiad (cafodd fynd adref ar ôl dwy awr, cyfnod llawer byrrach nag yn achos neb o'r bobl eraill y clywsom ganddynt).

Y mae'r dull o arestio yn codi rhai cwestiynau hefyd: aethpwyd ag un o'r drwgdybiedig i'r ddalfa pan oedd allan yn siopa gyda'i fab 9 mlwydd oed; aethpwyd



ag yntau i'r orsaf gyda'i dad ac yna ei hebrwng adref gan yr heddlu. Holwyd rhai aelodau o deuluoedd yn drylwyr, a'u gwaradwyddo mewn rhai achosion gan natur y cwestiynau, tra cafodd teuluoedd eraill "eu trin fel na baent yno" yn ystod y chwilio a'r arestio.

Y mae'r cyfnod y cedwid pobl yn y ddalfa yn codi pwynt arall. Dywed Deddf y Llysoedd Ynadon 1952 Adran 38 pan eir ag oedolyn i'r ddalfa am dramgwydd difrifol heb warant, a'i gadw yn y ddalfa, y dylid dod ag ef/hi ger bron llys ynadon cyn gynted ag sydd yn ymarferol. Heb law am y broses o holi yr ymdrinir â hi yn yr adran ar holi isod, beth ddigwyddodd yn ystod y cyfnod hwnnw yn y ddalfa?

Meddai un a gadwyd yn y ddalfa am dridiau ac un awr ar ddeg:

*"Aethpwyd â mi i swyddfa heddlu X yn gyntaf, yna i swyddfa heddlu Y erbyn tua 5 p.m. brynhawn Sul. Yr oeddwn yng ngorsaf heddlu Y tan fore Mawrth pan aethpwyd â mi i orsaf heddlu X. Oddi yno, yr un diwrnod, aethpwyd â mi i Z. Fe'm gollyngwyd ar fechnïaeth o orsaf heddlu Z ar ôl cinio ddydd Mercher. Bu'r heddlu a aethai â mi i fyny i Z garediced ag aros amdanaf pan glywsant fod posibilrwydd y cawn fy rhyddhau. A daethant hwythau â mi yn ôl i Y".*

Un arall o'r drwgdybiedig a gadwyd am ddiwrnod a deunaw awr:

*"Fy nghymryd i swyddfa heddlu X ac yna ymlaen i swyddfa heddlu Y. Dweud wrthyf 'fe'ch cymerir oddi yma pan fyddant yn barod' a'm dwyn yn ôl i orsaf heddlu Y yn y man".*

Aethpwyd ag un arall i dair gorsaf heddlu yn ystod y diwrnod a phymtheg awr y bu yn y ddalfa. Gofynnodd cyfaill i ble y byddent yn mynd ag ef a dywedodd un o'r heddgeidwaid wrtho am feindio ei fusnes - hwyrach na wyddai'r heddlu eu hunain!

Yn ôl un o'r drwgdybiedig a arestiwyd ond a ryddhawyd yn ddiweddarach ar ôl diwrnod a phedair awr ar ddeg yn y ddalfa:

*"Dywedwyd wrthyf fore Llun yng ngorsaf heddlu X y cawn fy rhyddhau ar ôl cinio. Yna dywedwyd wrthyf na chawn fynd tan tua 5.00 p.m. Bryd hynny aeth dau heddwas â mi i gar ac i ffordd â ni. Dywedodd y naill y gwyddai'r ffordd i garchar Y. Aethpwyd â mi i orsaf heddlu Z a'm cloi i mewn am ddeng munud. Yna fe'm cymerwyd yn ôl i X. Cefais fy nghloi mewn ystafell (nid cell) a dywedwyd wrthyf y cawn gyfweliad pellach. Beth amser yn ddiweddarach agorwyd y drws, a rhoddwyd fy arian ac ati yn ôl i mi a dywedwyd wrthyf am fynd adref".*

Cynigiwyd un eglurhad posibl ar y fath deithio gorffwyl gan y drwgdybiedig ei hun:

*"Wedi i mi gyrraedd gorsaf heddlu X dywedwyd wrthyf o'r tu allan i'm cell fod y gŵr hyn yn frawychwyr caled ac mae felly y caent eu trin".*

## CHWILIO A MYND AG EIDDO

Nid oes gan yr heddlu mo'r hawl i chwilio oni allant gyfiawnhau myned ohonynt i mewn i dai sy'n eiddo pobl eraill drwy awdurdod cyfreithiol. Yn Operation Tân yr oedd hyn yn golygu cael gafael ar y gwarantau chwilio priodol. Y mae hyd a lled pwerau'r heddlu i fyned i mewn, i chwilio a mynd ag eiddo ymhell o fod yn glir, fel y dengys y datganiadau yn yr arolwg. Diau na ŵyr llawer o heddgeidwaid hyd a lled y gyfraith mewn perthynas â chwilio, a phur anhebyg yw hi y gŵyr y dinesydd a yw hi'n gyfreithiol i chwilio ai peidio. Y mae'r ansicrwydd hwn yn debyg o weithredu o blaid yr heddlu, sydd naill ai yn elwa arno ar y pryd, gan na ŵyr pobl a oes ganddynt hawl i wrthwynebu, neu sy'n trefnu eu gweithgareddau er sicrhau'r cydweithrediad helaethaf posibl (h.y. cyrraedd gyda'r wawr, defnyddio rhwng 5 ac 11 heddwas ar bob cyrch).

Os daw'r heddlu wrth chwilio o hyd i rywbeth sydd yn amlwg heb ddim cysylltiad â diben y warant, y mae cyfraith achosion yn caniátau iddynt fynd â'r eitem(au) ymaith a'u cynnig yn y pen draw yn dystiolaeth ar gyfer cyhuddiadau eraill. Y mae achosion o'r fath yn ysgogi'r heddlu i chwilio adeiladau ar "dripiau pysgota" (cyhuddwyd dau ddyn o fod â channabis yn eu meddiant er mai chwilio mewn cysylltiad â ffrwydron yr oedd yr heddlu, wedi i fomiau gael eu gosod yn swyddfeydd y Ceidwadwyr yn Shotton a Chaerdydd: cafodd unei ddirwyo wedi hynny, a dywedwyd wrth y llall na fyddai cyhuddiad yn ei erbyn).

*"Aeth yr heddlu â'm teipiadur, fy llyfr nodiadau a phapurau arholiadau y byddai myfyrwyr yn eu sefyll yn yr haf".*

neu

*"Aethpwyd â nifer fawr o bethau: fy holl bapurau busnes, llawer o ffotograffau, canhwyllau, olew petrol (ar gyfer llif gadwyn), rholyn o dâp masgio, llyfrau, cyllell jyngl, fy holl lenyddiaeth Cofiwn ... esgidiau, esgidiau mawr, trowsusau ac ati a phasport ... Ni roddwyd derbyneb i mi am fy eiddo sydd, ag eithrio'r hyn oedd yn fy mhocedi ar y pryd, yn dal ganddynt hwy".*

neu

*"Gwrthododd fy mam ganiatáu iddynt chwilio'r car gan nad ydwyf fi'n gyrru car, ac fe'i cedwir yng ngarej y tŷ drws nesa".*



neu

*"Ni roddwyd derbyneb i mi er iddynt ddweud wrthyf y cawn un pan ofynnais; a chan na fedrwn wylio'r saith ohonynt, nid oes modd gwybod a aethpwyd ag unrhyw beth arall".*

neu

*"Aethant ymaith ag amlenni plaen a phai Tŷ'r Cyffredin heb eu defnyddio y credent (ar gam) ei bod yn bosib eu bod wedi eu dwyn, set brintio John Bull, unrhyw dameidiau o bapur ag enwau a chyfeiriadau arnynt, cartŵn ..."*

neu

*"Cymerwyd papurau Plaid Cymru, cyfeiriadau aelodau a chefnogwyr lleol; datganiadau a ffeithiau gwrth-niwcliar ynghyd â bathodynnau; manylion am Gyfarfod Cyffredinol Blynyddol Cofiwn, unrhyw bapur a oedd yn cynnwys cyfeiriad John Jenkins, ffurflenni aelodaeth; papurau ar ymgyrch y Bedwaredd Sianel".*

Ceir gwarantau oddi wrth Ynad Heddwch drwy gyflwyno gwybodaeth iddo, mewn ffurf safonol fel arfer. Ni raid i'r heddlu wneud cais i ynad y lleolir yr adeiladau o dan sylw o fewn cylch ei awdurdodaeth ef. Ni raid i'r ynad ffeilio'r wybodaeth yn y llys na chadw cofnod o'r gwarantau a ganiatawyd. Ni ŵyr yr ynad a wnaethpwyd ymchwiliad ai peidio, na p'run ai a oedd yn llwyddiannus. Ni ellir cadw cofnod o'r nifer o weithiau y caiff adeilad ei chwilio gan y gellir cael gwarantau gan nifer o ynadon gwahanol.

Dylai'r ynad sefydlu fod cyfiawnhad dros chwilio. Y mae angen hysbysiaeth ar lw, yn arddangos digon o dystiolaeth i sicrhau cyfarfod â'r safon a osodwyd. Y mae'n ddyletswydd ar yr ynad i weithredu'n farnwrol, a rhaid iddo bwyso a mesur y mater i benderfynu a ddangoswyd achos rhesymol. Mesur diogelwch yw'r broses hon, yn ddamcaniaethol: ystyrir yr angen am warant chwilio ddwywaith, unwaith gan yr heddlu ac yna gan ynad. Ond byddai swyddogaeth yr ynadon i ddiogelu yn erbyn camddefnyddio pwerau gan yr heddlu yn fwy effeithiol pe baent yn fwy llym yn eu hystyriaeth o'r wybodaeth ger bron. Yn ymarferol, mae cysylltiad rhwng ynadon a swyddogion yr heddlu drwy eu gwaith yn y llys, ac fel arfer, ni fydd eu harchwiliad o gais am warant yn llawer mwy na sêl bendith otomatig i'r heddlu chwilio neu arestio.

O dan adran 6 (1) o'r Ddeddf Difrod Troseddol 1971 y mae gan Y.H. y pwer i gyhoeddi gwarant i chwilio adeilad sy'n perthyn i berson y credir fod ganddo/ganddi o dan ei r(h)eolaeth unryw beth y mae achos rhesymol dros feddwl y cafodd ei ddefnyddio, neu y bwriedir ei ddefnyddio, heb esgus cyfreithlon, i ddinistrio neu ddifrodi eiddo sy'n perthyn i rywun arall, neu i ddinistrio neu ddifrodi unrhyw eiddo mewn modd sydd yn debygol o beryglu bywyd rhywun arall. Y mae'r hawl a roddir i'r heddlu i ddwyn ymaith eiddo wedi ei

ei drafftio'n gaeth, gan gynnwys dim ond y gwrthrychau hynny y cred y cwnstabl sy'n chwilio eu bod wedi eu defnyddio, neu y bwriedir eu defnyddio, i ddinistrio neu niweidio eiddo yn yr amgylchiadau a waherddir yn yr adran. Y mae pob tramgwydd o dan y Ddeddf hon yn dramgwydd y gellir arestio dyn o'i herwydd. Pa mor agos yw'r cysylltiad rhwng y darpariaethau hyn â realrwydd gweithgareddau'r heddlu?

*"Chwiliasant bopeth yn y tŷ, a Neuadd y Pentref hefyd - Llyfrgell y Pentref, pob ystafell yn y Neuadd, a daethant yn ôl liw dydd i chwilio diogell y Cyngor Cymuned".*

neu

*"Aethpwyd â dau deipiadur, tair coflen o bapurau newydd o leiaf, un poster, pabwyr lampau, tun o laddwr -chwyn, papur newydd doniol a roddwyd at ei gilydd gan fy merched ..."*

Y mae'r warant yn nodi y gellir mynd ymlaen â'r chwilio "drwy rym os oes rhaid" ond ni ddylid defnyddio mwy o rym nag sydd yn angenrheidiol. Yn wir, gofynnodd un o'r drwgdybiedig i'r heddlu brofi pwy oeddynt, gan alw arnynt drwy ei ffenestr flaen, ond yn lle rhoi'r manylion, y cwbl wnaeth yr heddlu oedd torri'r drws i lawr; cafodd eraill estyll wedi eu rhwygo o'r lloriau a lle tân wedi ei dynnu allan, ond ni arhosodd neb i lanhau'r parddu; torrwyd tri chlo mewn un tŷ cyn i'r drwgdybiedig gael eu harestio yn y gwely. Gwelodd un arall o'r drwgdybiedig drosol ym mhoced heddgeidwad pan fflachiwyd lamp heddlu o gwmpas ei ystafell wely.

Yn ôl un arall a ddrwgdybiwyd:
*"Dywedodd un ohonynt ei bod hi'n bosibl chwilio'r tŷ yn fwy manwl drwy godi estyll y llawr ac arestio fy ngwraig"*

neu

*"Pan aeth fy mab i'r tŷ yn X gwelodd fod drws cefn y tŷ yr oeddwn i wedi ei gloi cyn mynd gyda'r heddlu i'r orsaf wedi cael ei dorri ar agor a bod dau heddwas yn y tŷ yn chwilio. Gofynnodd iddynt am warant. Yr ateb a gafodd, fodd bynnag, oedd ei bod yn yr orsaf os oedd ef am ei gweld".*

neu

*"Pan ddychwelais adre o'r gwaith yr oedd tri heddwas mewn dillad cyffredin yn y garej .... Edrychasant ar gerbyd fy mab .... aethpwyd ag un o'r teiars cefn ymaith".*

Yn yr achos olaf, y gŵr a gawsai ei arestio, nid y mab!

Nid yw'r cwestiwn o heddgeidwaid yn aros mewn tŷ neu yn mynd yn ôl i mewn iddo ar ôl i'r drwgdybiedig gael eu harestio a'u dwyn ymaith yn fater yr ymdrinir ag ef yn yr un o'r llyfrau cyfraith safonol, ac eto cawsom glywed am sawl enghraifft o hynny; dyfynnir un ohonynt yma:



*"Dedlais wedi i mi gael fy nwyn ymaith y gadawyd cwnstabl mewn gwisg swyddogol yn fy nhŷ ar ei ben ei hun. Atebodd alwad ffôn gan fy merch, gan ddweud mai ef oedd y lletywr a bod fy ngŵr a minnau wedi mynd allan yn gynnar a heb gyrraedd yn ôl eto ... Yr oedd yn y tŷ pan alwodd fy mrawd hefyd - ni chynigiodd y cwnstabl yr un eglurhad ac yr oedd yn defnyddio'r ffôn ar y pryd. Gŵyr fy mrawd ein bod yn darparu gwely a brecwast a chredai' n wirioneddol mai lletywr ydoedd ... Tra'r oeddynt yn chwilio fy nghartref, defnyddiodd un o'r heddgeidwaid fy ffôn heb ganiatâd i ffonio'i wraig i roi gwybod iddi y byddai'n hwyr ac i holi am ei deulu. Dylid egluro hyn".*

Yn olaf, y mae gan yr heddlu yr hawl i gadw eiddo'r rheini a ryddheir ar fechniaeth o dan ddeddfwriaeth benodol (ond dim ond o fewn y darpariaethau cyfyngedig a nodwyd uchod). Byddai hynny'n egluro pam na ddychwelwyd eu heiddo i rai pobl hyd yn hyn, gan na ddaeth cyfnod eu mechnïaeth i ben eto. Fodd bynnag, ni chyhuddwyd y rhan fwyaf o'r rheini a arestiwyd ac nid ydynt ar fechnïaeth, ac ni allwn ond tybio mai'r rheswm dros gadw cymaint o eiddo personol y tu hwnt i unrhyw gyfnod cyfreithlon yw eu bod yn cael eu harchwilio'n fanwl o safbwynt hel gwybodaeth (ymddengys nad ydyw Compiwtar Cenedlaethol yr heddlu bob amser yn gweithio mor gyflym ag yr hysbysebir ei fod!).

Ar yr 28ain Ebrill 1980 gofynnodd Dafydd Wigley gwestiwn seneddol ynglŷn â'r rheidrwydd sydd ar yr heddlu i roi derbynebau ar gyfer pob eitem o eiddo a gymerir ganddynt i'w harchwilio mewn perthynas â thramgwyddau a ddrwgdybir. Ateb Leon Brittan A.S., llefarydd y Swyddfa Gartref, yw y bydd yr heddlu fel arfer yn rhoi derbyneb am eiddo a ddygwyd ymaith os gofynnir am un. Yr oedd ei adran ef newydd adolygu'r mater hwn gan ymgynghori gyda Chymdeithas Prif Swyddogion yr heddlu, ac nis darbwyllwyd o'r ffaith fod angen arweiniad ychwanegol. Fodd bynnag, cafodd unigolion ei bod hi'n amhosib cadw llygad ar yr heddlu gan fod nifer o swyddogion yn chwilio mewn gwahanol ystafelloedd, neu oherwydd iddynt ddal i chwilio tai wedi i'r drwgdybiedig gael eu dwyn ymaith i swyddfa'r heddlu. O ganlyniad, ni fedrai pobl sefydlu'n iawn beth yn union a ddygwyd ymaith. Ni chafwyd ateb boddhaol ar y mater hwn, gan na roddwyd derbynebau, ond am rai eithriadau, hyd yn oed pan ofynnwyd amdanynt.

*"Ni roddwyd derbynebau am unrhyw ddewnydd a ddygwyd ymaith er gofyn droeon amdanynt. Yr wyf oddi ar hynny wedi ceisio cael peth o'r eiddo hyn yn ôl, ond heb ddim llwyddiant".*

Y mae enghreifftiau eraill yn rhy niferus i'w dyfynnu.

RHEOLAU'R BARNWYR

Cyfarwyddir yr heddlu ynglŷn ag arfer eu pwerau i gadw pobl yn y ddalfa a'u holi, a sut y dylid trin pobl o dan ddrwgdybiaeth, mewn dogfen o enw Rheolau'r Barnwyr a luniwyd yn wreiddiol yn 1912; y tro diwethaf yr adolygwyd y rheolau hyn yn llawn oedd ym 1964 (cylchlythyr y Swyddfa Gartref Rhif 89/1978 HMSO). Dywed y Rheolau wrth yr heddlu sut mae holi person a ddrwgdybir, y modd y dylid rhybuddio'r drwgdybiedig cyn ei holi a chyn ei gyhuddo, a sut mae cymryd datganiad. Y mae'r Cyfarwyddiadau Gweinyddol a gyhoeddwyd gyda'r Rheolau yn ymdrin â chofnodi manylion yr holi, "cysur a lluniaeth" i'r drwgdybiedig a chyfleusterau ar gyfer yr amddiffyniad. Rhydd yr eitem olaf y geiriau y dylid eu defnyddio wrth hysbysu'r drwgdybiedig o'i hawliau cyfreithiol ac ar ba amodau y caiff ymgynghori â chyfreithiwr. Nid yw'r Rheolau'n ystatudol. Mewn geiriau eraill, ni pherthyn iddynt rym y gyfraith.

a. Cysur a Lluniaeth

Cadwyd y rhan fwyaf o'r drwgdybiedigion mewn celloedd tan glo ag eithrio am gyfnodau o holi a theithio o'r naill orsaf heddlu i'r llall. Rhoddwyd matres i rai, meinciau pren oedd gan eraill i gysgu arnynt. Y dillad gwely arferol a ddarparwyd oedd dwy flanced amrywiol eu cyflwr a'u glendid. Cafodd rhai o'r drwgdybiedigion brydau bwyd rheolaidd, dywed eraill iddynt dderbyn dau bryd mewn deuddydd. Gwrthodwyd diod/bwyd o'r drwgdybiedigion am gyfnodau maith, ac ni chafodd sawl charcharor a gadwyd yn y ddalfa dros nos ddiod o gwbl. Yr oedd goleuadau'r celloedd ynghynn 24 awr y dydd, ond ni ddarparwyd cyfleusterau darllen neu ysgrifennu (gydag un eithriad pan ganiatawyd i un o'r drwgdybiedigion ysgrifennu llythyr at ei wraig ar ei drydydd diwrnod yn y ddalfa, y gallodd ei roi iddi yn bersonol pan gafodd ei ryddhau drannoeth). Ceid mynd i'r tŷ bach o dan arolygaeth yr heddlu. Dim ond pedwar carcharor a gafodd driniaeth fwy dynol, h.y. cael aspirin ar ôl gofyn amdano, cael diodydd mynych, eu cadw mewn ystafelloedd heb glo neu gael cwmni perthynas am beth o'r amser yn y ddalfa.

b. Hawl i gysylltu â chyfreithiwr/perthynas/cyfaill

Yn ddamcaniaethol, y mae gan berson a ddrwgdybir hawl bob amser i ffonio rhywun i ddweud ei fod wedi ei arestio. Yn ôl Rheolau'r Barnwyr a'r Cyfarwyddiadau Gweinyddol dylid hysbysu pawb sydd yn y ddalfa o'i hawl i gysylltu ar y ffôn â chyfreithiwr neu gyfaill a bwrw na fydd y ffaith iddo wneud hynny'n arafu neu lesteirio yn afresymol y broses o ymholi neu weinyddu cyfiawnder. Gan nad oes rym cyfreithiol i'r rheolau, fe'u hanwybyddir yn fynych heb nemor ddim canlyniadau i'r heddlu wedi hynny. Er enghraifft, cafodd yr Anrhyd. Syr Henry Fisher nad oedd



*"bodolaeth Cyfarwyddiad Gweinyddol 7 yn hysbys i gyfreithwyr a swyddogion heddlu hŷn a roddodd dystiolaeth ger fy mron. Ni thelir sylw iddo yn Ardal yr Heddlu Metropolitaidd". (Report of the Enquiry into the Death of Maxwell Confait, HMSO, 1977).*

Yn fuan wedi cyhoeddi Adroddiad Fisher ailargraffwyd Rheolau'r Barnwyr a rhoddwyd copiau i bob aelod gweithredol o'r heddlu yng Nghymru a Lloegr. Yn gynharach ym 1972 darganfu Michael Zander mewn arolwg yn Llundain y gwaherddid 74% o'r rheini a ofynnai am gyfreithiwr rhag cael gweld un. Y mae hyn yn awgrymu fod penderfyniad yr heddlu i beidio â chaniatau cysylltu â chyfreithiwr yn gweithredu fel y rheol yn hytrach na'r eithriad y dichon y byddai'r gair '*proviso*' yn ei awgrymu.

Rhoddwyd grym cyfreithiol i ddarpariaeth ddiweddarach i roi'r hawl i ddyn yn y ddalfa gysylltu ag un person y tu allan i swyddfa'r heddlu yn Neddf Cyfraith Trosedd au 1977, adran 62. Y mae adran 62 yn ddarostyngedig i brofiso cyffelyb i hwnnw yn Rheolau'r Barnwyr gan ei fod yn cynnwys darpariaeth eang sydd yn caniatáu i'r heddlu yr hawl i wrthod i garcharor gysylltu â chyfreithiwr; yn eilbeth, nid ydyn'n orfodol gan nad oes cyfeiriad at gosb am anufuddhau o fewn y ddeddfwriaeth ei hun. Meddai'r Arglwydd Ustus Lawton yn *Lemsatef* ym 1977:

*"Os ydyw swyddogion sydd yn arestio pobl neu'n eu cadw yn y ddalfa yn mynd i wrthod caniatáu i gyfreithiwr gynghori dyn a arestiwyd neu sydd yn y ddalfa, yna ni thâl hi ddim iddynt wag-lefaru geiriau Rheolau'r Barnwyr: rhaid iddynt fod yn barod, os gofynnir iddynt, i gyfiawnhau yr hyn y maent yn ei wneud".*

Er gwaethaf datganiad Lawton, ni ddywedwyd wrth y drwgdybiedig (gyda dau eithriad) paham y gwrthodwyd caniatáu iddynt weld eu cyfreithwyr. Os arestir rhywun a ddrwgdybir, y mae'r gyfraith yn mynnu y dylid rhoi rheswm dros hynny. Os amddifadir person a arestiwyd o un o'i hawliau, megis yr hawl i hysbysu cyfaill, perthynas neu gyfreithiwr o'r lle y mae, yna unwaith eto dylid rhoi'r rheswm dros wrthod caniatáu hyn er nad oes reidrwydd ar yr heddlu i wneud hynny o dan y drefn bresennol.

Dywedodd un wraig a arestiwyd am 5.45 a.m. fore Sul a'i chadw am 29 awr:

*"Cefais ffonio cyfeillion i mi a oedd yn gofalu am y plant tua 11.30 y nos. Cawsom fynd i weld y plant, yng ngofal cyfeillion, cyn mynd i swyddfa'r heddlu".*

Dywedodd un arall o'r drwgdybiedigion a gadwyd am 36 awr:

*"Cefais ffonio fy nghyn-wraig ynglŷn â iechyd fy mab. Caniatawyd hynny yn swyddfa'r heddlu".*

Dywedodd un o'r drwgdybiedigion a gadwyd am ddeuddeng awr:

*"Dywedodd fy mam ei bod hi'n dod gyda mi. Nid oedd gwrthwynebiad i hynny. Arhosodd fy mam yn yr un ystafell, heb i neb wrthwynebu ... Cafodd fy mam gofnodi fy natganiad mewn llaw-fer".*

Yr oedd gwrthod caniátad i gysylltu â neb, neu oedi maith yn beth llawer mwy cyffredin:

*"Gwneuthum geisiadau di-rif i ffonio adref yn ystod y dydd (Sul) ond gwrthodwyd caniatâd. Ar ôl i mi erfyn yn daer, cefais ffonio tua 10 p.m. yng ngorsaf X gyda swyddog yn gwrando ar y sgwrs.* (Un o'r drwgdybiedigion a gadwyd am 39 awr).

neu

*"Na, dywedwyd wrthyf 'Dim siawns'".*

neu

*"Gofynais am gael cysylltu â'm gwraig, ni chefais wneud".*

neu

*"Gwneuthum lawer cais fore Sul yn yr orsaf yn X (Dim galwadau) Ni roddwyd rheswm".*

neu

*"Yn swyddfa'r heddlu ... gofynais sawl gwaith i nifer o wahanol aelodau o'r heddlu. Dywedwyd wrthyf gan un aelod o'r heddlu mai brawychwr oeddwn ac nad oedd gennyf felly ddim hawliau. Dywedodd y gweddill yr edrychent mewn i'r peth, ond ni chysylltwyd â neb".*
(Un a gadwyd am 52 awr).

neu

*"Dywedodd swyddog hŷn wrthyf nad oedd gennyf ddim hawliau ac fy mod, o'u safbwynt hwy, yn euog nes fy mhrofi'n ddi-euog".*
(Un a gadwyd am 39 awr).

Cododd anhawsterau hefyd wrth i berthnasau, cyfreithwyr, cyfeillion a/neu ASau geisio darganfod i ba le yr aethpwyd â'r drwgdybiedigion.

*"Ni chefais ddim gwybodaeth heb ffonio pwn swyddfa heddlu ynglŷn â pha le yr oedd fy ngŵr".*
(Un a gadwyd am 81 awr).

neu

*"Dywedwyd wrth fy mam nad oeddynt hwy wedi cofnodi'r ffaith i mi gael fy arestio. Ceisiodd fy mam gysylltu â'r heddlu i ddarganfod ble'r oeddwn i. Ni chafodd wybod, fodd bynnag, er ceisio dro ar ôl tro".*
(Un a gadwyd am 33 awr).

neu



*"Ni hysbyswyd y teulu a gwrthodwyd rhoi ateb iddynt drachefn a thrachefn wrth iddynt ffonio".*

neu

*"Gofynnais iddynt hysbysu fy mab-yng-nghyfraith. Dywedodd wedyn 'does dim sicrwydd y gwneir yr alwad' - ac nis gwnaethpwyd"*
(Un a gadwyd am 12 awr)

neu

*"Gwrthodwyd rhoi unrhyw wybodaeth i ni a gwadodd yr heddlu eu bod yn ei gadw. Aeth fy nghyfreithiwr ar drywydd hyn a dywedodd yr heddlu wrtho yntau na wyddent ddim byd amdano ac nad ydoedd yn y ddalfa. Yr unig ffordd y llwyddasom i sefydlu ym mha le yr oedd yn cael ei gadw oedd drwy hysbysu gorsaf heddlu X ei fod ar goll/wedi ei gipio. Dywedwyd wrthym wedyn ei fod yn y ddalfa yn Z".*
(Person drwgdybiedig a gadwyd am 38 awr. Y mae ei wraig yn dioddef o afiechyd difrifol ar y galon ac y mae'n fethiedig ond fe'i cadwyd hithau am 12 awr).

c. <u>Hawliau</u>

Yn ôl darpariaethau Pheolau'r Barnwyr dylid tynnu sylw'r unigolyn "at rybudd sy'n disgrifio yr hawliau a'r cyfleusterau sydd ar gael iddo, y dylid ei arddangos mewn man amlwg, ym mhob gorsaf heddlu".

*"Yn yr ystafell gadw, dangoswyd rhybudd ar y wal i mi, yn fy hysbysu o'm hawliau".*

neu *"Dywedais wrthynt fy mod yn ffonio fy nghyfreithiwr cyn i mi adael fy nghartref. Gwneuthum hynny a dywedais y byddai fy nghyfreithiwr yn fy ffonio yn swyddfa'r heddlu. Dywedasant fod hynny'n iawn".*

neu *"Dangoswyd rhybudd ar y wal i mi, ond ni chefais lawer o amser i'w ddarllen".*

neu *"Tra'r oeddwn yn y ddalfa, gwrthodwyd i mi'r hawl i gysylltu â chyfreithiwr, teulu neu gyfeillion, a dywedwyd wrthyf nad oedd gennyf ddim hawliau; ar un adeg, rhwygodd heddgeidwad damaid o bapur oedd yn dwyn enw a chyfeiriad fy nghyfreithiwr yn ddarnau o'm blaen".*

neu *"Ni ddywedwyd dim".*

neu *"Ni ddywedodd yr heddlu wrthyf beth oedd fy hawliau".*

neu *"Dywedodd (swyddog hŷn) wrthyf nad oedd gennyf hawliau, ac o'u safbwynt hwy, fy mod yn euog nes fy mhrofi'n ddieuog".*

neu

*"Dywedwyd wrthyf cyn mynd â mi i swyddfa'r heddlu i beidio â thalu dim sylw i erthyglau diweddar yn y wasg ynglŷn â throseddau yn erbyn hawliau pobl eraill a arestiwyd o'm blaen. Dywedwyd wrthyf y gellid fy arestio heb i'r heddlu hysbysu neb o bla le y'm cedwid, am gyhyd ag y mynnai'r heddlu".*

neu

*"Dywedwyd wrthyf yn X cyn gynted ag y cyrhaeddais yno nad oedd gennyf ddim hawliau. Fod ganddynt dystiolaeth bendant ac y cawn fy nghadw mewn cell am y 40 mlynedd nesaf".*

HOLI

Cadwyd y rhan fwyaf o'r drwgdybiedigion yn y ddalfa, chwiliwyd adeiladau a dygwyd eiddo ymaith o dan Ddeddf Difrod Troseddol 1971. Y mae'r Ddeddf hon yn ymdrin â drwg-losgi, dinistrio neu ddifrodi eiddo, bygwth dinistrio neu ddifrodi eiddo, a meddiant eitemau gyda'r bwriad o ddinistrio neu ddifrodi eiddo. Rhaid i ni archwilio natur a chwmpas y cwestiynau a ofynnwyd gan yr heddlu o fewn fframwaith eu pwerau i arestio pobl a'u holi o dan y Ddeddf hon. A oeddynt yn ymholi i gyfres o faterion penodol: difrod troseddol, yn benodol, losgi ail gartrefi? Neu a oedd hon yn ymgyrch fwy cyffredinol ei natur? Ai bwriad y cwestiynau oedd casglu gwybodaeth gyffredinol ynglŷn â gweithgareddau gwleidyddol pleidiau a mudiadau cyfreithlon yng Nghymru tan gochl ymholi i droseddau ? Gofynnwyd i bawb a ymatebodd i'n harolwg am wybodaeth wleidyddol, e.e.

*"Gofynnwyd i mi ynglŷn â rhaglen Nationwide ar ail gartrefi, ynglŷn â noson gymdeithasol Y Faner Goch a'r cyfweliad mewn siliwet".*

neu

*"Sut y byddwn i'n fy nisgrifio fy hun yn wleidyddol. A oeddwn yn cytuno â pholisiau'r blaid Doriaidd, oeddwn i'n credu y byddai hi'n beth "neis" eu chwythu hwy (y Toriaid) i fyny. Faint o anarchwyr oeddwn i'n eu hadnabod, ac a rown i eu henwau iddo ef".*

neu

*"Fe'm holwyd yn gyson ynglŷn â Cofiwn, ei aelodau a'i weithgareddau".*

neu

*"Dywedodd y rhan fwyaf o'r aelodau yr ydym wedi siarad â hwy oddi ar hynny fod yr heddlu'n awgrymu fod a wnelo Cofiwn â'r llosgi a'u bod hyd yn oed wedi awgrymu mai ffrynt oedd Cofiwn ar gyfer mudiad brawychol. Dywedwyd wrth rai aelodau y byddai'r weithred hon gan yr heddlu yn rhoi terfyn ar Cofiwn am byth ... Y mae Cofiwn bellach mewn sefyllfa lle gellid dweud ei fod wedi ei fygu fwy neu lai. Y mae hyn oll yn fygnes trist iawn i Cofiwn, i Gymru ac i ddemocratiaeth".*



neu

*"Fe'm holwyd ynglŷn â'r Faner Goch, Mudiad Sosialaidd Gweriniaethol Cymru ... MAC, ymgyrch fomio'r 1960au ... Ni ofynnwyd i mi ynglŷn â'r un ymosodiad penodol ar dŷ haf".*

neu

*"Gofynnwyd imi i ddisgrifio fy holl symudiadau y diwrnod a'r noson flaenorol, ac am enwau pawb y bûm gyda hwy. Gofynnwyd i mi enwi pobl mewn ffotograffau y daethant o hyd iddynt yn fy fflat. Gofynnwyd i mi a oeddwn yn medru'r Gymraeg/yn adnabod Cymry Cymraeg. Yr oedd ganddynt ddiddordeb neilltuol yn y mudiadau yr wyf yn perthyn iddynt (gwybodaeth a gasglwyd o'm dyddiadur ac o bapurau yn fy fflat) a gofynnwyd cryn dipyn i mi ynglŷn ag aelodaeth/ trefniadaeth/amcanion/cynlluniau/gwleidyddiaeth y mudiad/ aelodau ac ati. Fe'm holwyd yn helaeth (drosodd a throsodd, gan wahanol heddgeidwaid) ynglŷn â'm gwleidyddiaeth/ athroniaeth, yn enwedig tuag at y 'Wladwriaeth' h.y. pa mor bell y byddech chi'n fodlon mynd i wrthwynebu'r Wladwriaeth ac ati".*
(anarchydd drwgdybiedig)

neu

*"Gofynnwyd i mi a oeddwn yn adnabod X ac Y? A oeddwn yn meddwl mai hwy oedd wrthi'n llosgi? Beth oedd fy nheimladau ynglŷn â'r tan cyntaf? Oeddwn i wrth fy modd? Oedd hi'n bryd i bobl fel Wigley a D. E. Thomas i gondemnio'n gryfach? Onid yw hi'n mynd fel Iwerddon yma?*

neu

*"Nid enwais neb ond y bobl a welswn nos Iau. Gofynnwyd i mi beth oedd fy marn ynglŷn â'r ymgyrch losgi tai haf. A oeddwn i wedi digio wrth y Toriaid am gau gweithfeydd dur yng Nghymru? A oeddwn yn aelod o Gymdeithas yr Iaith? A oeddwn i yn y Key Club noson recordio rhaglen Nationwide?*

neu

*"Gofynnwyd i mi beth a drafodwyd mewn gwahanol gyfarfodydd o Adfer a Cofiwn".*

neu

*"Enwau aelodau Cofiwn, yn enwedig. Pa bleidiau neu fudiadau gwleidyddol yr oeddwn yn perthyn iddynt hefyd. Pryd oedd y tro diwethaf i mi yeld X. Pam yr oeddwn i wedi ysgrifennu at y Times ynglŷn â llythyr Keith Best parthed X. Paham yr oedd gennyf goflen o doriadau o'r wasg ynglŷn â'r llosgi".*
(Keith Best yw AS Toriaidd Ynys Môn).

neu

*"Gofynnwyd i mi am enwau a chyfeiriadau anarchwyr neu genedlaetholwyr Cymreig. Gofynnwyd i mi ynglŷn ag X hefyd".*

neu

*"Gofynnwyd i mi lle yn union y bum rhwng 7.00 a.m. ddydd Iau a 9.00 ddydd Gwener ... pa mor dda yr oeddwn yn adnabod W, X, Y a Z (aelodau o fudiad Sosialaidd Gweriniaethol Cymru).*

*Pa bryd y gwelswn hwy ddiwethaf. Beth yw fy marn bersonol i am y bobl hyn. Drwy gydol fy 4 awr a chwarter cawn yr argraff mai'r unig reswm dros fy nghadw oedd bod W wedi dod i'r unig gyfarfod o Fudiad Sosialaidd Gweriniaethol Cymru y bûm ynddo, a'i fod wedi galw heibio'r tŷ yn ddiweddar i son am ffurfio cangen leol o Cofiwn".*

neu

*"Ni ofynnwyd i mi ynglŷn â'm symudiadau, ond yr oedd ganddynt ddiddordeb yn oeddwn yn ei adnabod. Ni holwyd llawer arnaf o gwbl. Fy holwr, X, oedd yn siarad y rhan fwyaf o'r amser a phwrpas hynny oedd fy nychryn."*

Adroddiad gan ŵr a gwraig nas harestiwyd ond a holwyd ddwywaith gartref a phedair gwaith wrth atalfeydd ar y ffordd.

*"Symudiadau - gofynnwyd i mi yn ystod yr ymweliad cyntaf ym mha le y buaswn ar adegau penodol... gofynnwyd i mi ar Fawrth 5ed a oeddwn yn adnabod unrhywun yr oedd a wnelont â llosgi tai haf, a hefyd a oeddwn yn dal i fod yn aelod o Gymdeithas yr Iaith. Gofynnwyd i mi hefyd a fyddwn yn fodlon enwi pobl wrth yr heddlu pe clywm son am rywun ... ynglŷn â'n hagwedd tuag at y llosgi ... gofynnwyd i'm gwraig paham yr aethai i'r Iwerddon adeg y gêm rygbi Ryngwladol".*

Carem bwysleisio mai dim ond ENGHRAIFFT o'r hyn a dderbyniwyd yw'r datganiadau hyn. Dywedodd yr unigolyn a enwyd amlaf gan yr heddlu yn ystod cyfweliadau:

*"Gofynnodd yr heddlu gwestiynau manwl ynglŷn â'r HOLL bynciau uchod (symudiadau/enwau/mudiadau) gan dalu sylw arbennig i Cofiwn, y mudiad hanesyddol a diwylliannol. Dywedasant yn bendant yr ystyrid fod Cofiwn yn ffrynt ar gyfer rhywbeth mwy ysgeler".*

Holwyd 19 o aelodau Cofiwn, gan gynnwys 12 o'r swyddogion.

Rhydd yr adroddiadau uchod argraff o gydbwysedd yr holi: yn fynych, ceid cwestiynau am ddifrod troseddol i ddechrau, ond buan y dilynwyd y rhain gan sesiynau mwy manwl ar weithgareddau a chysylltiadau gwleidyddol. Yr enghreifftiau gorau y gallem ddod o hyd iddynt o holi manwl ynglŷn â difrod troseddol oedd:

*"Bu'n rhaid i mi roi adroddiad ynglŷn â'm symudiadau yn ystod y pedwar penwythnos diwethaf. Rhaid oedd i mi fanylu'n llawn ar fy symudiadau rhwng bore Iau (27ain Mawrth) a nos Sadwrn, h.y. yn ystod y cyfnod y gosodwyd bom y tu allan i swyddfa'r Ceidwadwyr yng Nghaerdydd. Gofynnwyd i mi ynglŷn â dau berson yn unig, X a Y. Doedd dim angen (gofyn a oeddwn yn adnabod pobl neilltuol), gwyddent bopeth amdanaf. Gofynnwyd i mi hefyd beth oedd fy agwedd tuag at losgi tai haf".*

a

*"Gofynnwyd i mi ddweud ble'r oeddwn ar adeg llosgi pob tŷ haf a gofynnwyd i mi os oeddwn yn adnabod llu o wahanol bobl ..."*

(Gofynnwyd i'r drwgdybiedig ynglŷn â Phlaid Cymru, Adfer, Cymdeithas yr Iaith, M.A.C.,Cofiwn, Cadwyr Cymru a'r F.W.A. hefyd).



Heb law am gynnwys y cwestiynau a ofynnwyd, y mae'n bwysig sefydlu SUT y'u gofynnwyd hefyd. Beth oedd cyd-destun yr holi dros faes mor eang Yn sicr, dywedodd rhai pobl na theimlent fod yr amgylchiadau 'n rhai bygythio , a'u bod yn pryderu mwy am les perthnasau nag amdanynt hwy eu h nain. Ond teimlai llawer ohonyt tan fygythiad, a dyma enghraifft o amgylchiadau'r rheini.

*"Fe'm holwyd o dan bwysau mawr h.y. tri neu bedwar ohonynt yn lluchio cwestiynau ataf yr un pryd - a defnyddiwyd y dechneg galed a meddal. Gan i mi dderbyn rhywfaint o hyfforddiant yn y llwoedd arfog ynglŷn â gwrthsefyll holi (oherwydd fy swydd) medrwn adnabod y technegau".*

neu

*"Ymosodwyd yn eiriol arnaf eto ac ar un adeg fe'm trawyd deirgwaith yn fy mrest gan un swyddog a oedd yno".*

neu

*"Safodd swyddog hŷn yng ngorsaf X o'm blaen yn dal papur-newydd wedi ei blygu a oedd yn cynnwys adroddiad ar un agwedd ar yr ymgyrch. 'Brawychwr ydych chi',gwaeddodd arnaf gan roi un i mi ar draws fy wyneb gyda'r papur. Fe'm tarodd ar fy nghorff ddwywaith wedyn (ddim yn ddrwg iawn). Bwom yn gweiddi ar ein gilydd am ychydig funudau a minnau'n ateb ei sylwadau drwy ei alw'n'Nazi' ac yn 'llabwst'".*

(person drwgdybiedig canol oed a gadwyd am fwy na thridiau

neu

*"Aethant â'm sbectol. Yr oedd hynny'n flinder mawr i mi gan fy mod yn fyr fy ngolwg. Gwrthodasant ei rhoi yn ôl i mi yn ystod yr holi".*

neu

*"Dywedwyd pe cydweithredwn y gollyngid y cyhuddiad yn fy erbyn o fod â chyffuriau yn fy meddiant ... pan wrthodais enwi neb dywedwyd wrthyf pe llwyddent i ddod o hyd i'r gronyn lleiaf o dystiolaeth o gynllwynio y llament arnaf mor galed fel na fyddwn yn gwybod beth a'm tarodd, ac fe wnaent yn siŵr y teflid yr allwedd ymaith".*

neu

*"Collaswn fy ngwraig a'm tri mab - ysgariad oherwydd y pum mis a dreuliais yn y carchar yn disgwyl am yr achos (fe'i cafwyd yn ddieuog yn achos yr FWA yn Abertawe ym 1969). Gwyddai'r heddlu am fy nghelled a bwont yn ceisio gweithio ar fy meddwl, gan awgrymu y diguyddai'r un math o beth eto. Bygwth arestio fy ngwraig a gosod y plant bach yng ngofal yr awdurdod lleol. Fe'm bygythiwyd tua hanner ffordd drwy ddydd Llun pan aeth y ddau ditectydd o'm cellŷ wneud hyn- ni chefais wybod lle'r oedd y teulu tan tua 6 o'r gloch y nos a dywedodd yr heddlu na fedrent ddod o hyd iddynt. Gyda llaw, nid oedd y teulu wedi bod allan o'r tŷ o gwbl.*

(un a gadwyd am 37 awr).

neu

*"Llawer iawn o bwyso emosiynol ar hyd yr adeg. Doeddwn i ddim yn credu y gellid gwneud hyn i unrhywun. Y mae fy iechyd yn fregus ac ni wyddwn beth oedd yn digwydd i'm gŵr na'm teulu. Bu'n rhaid i'm meddyg roi lleddfwyr ar bresgripsiwn i mi ers hynny".*

neu

*"Ar un adeg, ymaflwyd ynof gerfydd fy nghrys a'm hysgwyd. Fe'm trawyd o dan fy ngen gan fraich heddwas ... yn gyn-heddwas fy hun, fe'm syfrdanwyd gan holl ddull yr heddlu o fynd ati. Yn ystod un o'r nifer o gyfweliadau, dywedwyd wrthyf fod fy ngwraig mewn cell ac y defnyddid yr un pwysau yn ei herbyn hi".*

neu

*"Gadawyd dau olau disglair ynghynn yn y gell ar hyd y nos er i mi ofyn iddynt eu diffodd gan na fedrwn gysgu".*

neu

*"Y cwbl a ofynnwyd i mi oedd ble y bum dros y 24 awr blaenorol. Dywedwyd wrthyf nad datganiad ffurfiol mo hyn. Tra'r oeddynt yn disgwyl i rywun i ddod i wylio drosof, bu fy holwyr, rhingyll ac arolygydd, yn fy holi ynglŷn â'm barn ar weithredoedd brawychol o'r fath wrth sgwrsio â mi".*

neu

*"Ail-fynegwyd y bygythiad i chwilio fy nhŷ yn drylwyr (h.y. yn fwy trylwyr) gan godi lloriau, tynnu'r papur oddiar y wal, arestio fy ngwraig, gyda'r holl beth i barhau drwy'r nos a'r oriau man. Nid oeddwn wedi bwyta er hanner dydd, ac yr wyf yn dioddef â'm stumog ers blynyddoedd. Yn naturiol, yr oeddwn yn bryderus ynglŷn ag effaith hyn ar fy swydd, fy gnhymdogion a'm gwaith cyhoeddus, heb son am fy nheulu".*

neu

*"Gofynnwyd i mi ynglŷn â'm symudiadau a symudiadau fy ngŵr ... Yr oeddynt yn creu amheuon yn fy meddwl ynglyn a'm gŵr drwy'r amser".*

Tybed beth oedd "amheuon" o'r fath, Cawn ryw awgrym gan wraig un arall o'r drwgdybiedigion.

*"Gofynnwyd iddi (fy ngwraig) ynglŷn â'm cyflwr meddyliol; os oeddwn wedi torri i lawr yn feddyliol erioed, os oeddwn yn fyrbwyll, os oeddwn yn 'crefu am fod yn enwog'. Gofynnwyd iddi hefyd pam y priodasom mor sydyn ag y gwnaethom - fe'n priodwyd o fewn byr amser ar ôl i ni gyfarfod. Gofynnwyd iddi os oedd yn fy adnabod 'go iawn' a thrwy gydol yr holi, teimlai mai buriad cwestiynau'r heddlu oedd tanseilio ei hyder hi ynof fel gŵr cyfrifol. Fe'i holwyd hefyd ynglŷn â'n bywyd rhywiol. Dywedwyd wrthi fod 'brawychwyr' i gyd yn byrdroedig yn rhywiol, ac oherwydd fy mod i'n frawychwr, yna rhaid fy mod innau'n byrdroedig. Gofynnwyd iddi pa ddulliau atal-cenhedlu y defnyddiem ac os oedd 'vibrators' o gumpas y tŷ, neu unrhyw lenyddiaeth bornograffaidd".*



(Holwyd gwraig y drwgdybiedig gartref, ni chafodd ei harestio).

Ychwanega'r un person:

*"Cynigiodd un o'r ditectyddion fy nghludo gartref a defnyddiodd y cyfle hwnnw i ofyn mwy o gwestiynau i mi, gan gynnwys cwestiynau ynglŷn â'm bywyd rhywiol fy hun ac eiddo rhai o'm cyfeillion".*

Un peth terfynol a ddaeth i'r amlwg yn ystod yr holi oedd mater pobl sy'n rhoi gwybodaeth am eraill i'r heddlu. Daeth y 'grass' a'r 'supergrass' yn amlwg yn ymgyrch yr heddlu i reoli a datrys troseddau difrifol'. Yn gyfnewid am ffafr, ceir drwgweithredwyr yn rhoi gwybodaeth i'r heddlu ynglŷn â drwgweithredwyr eraill, ond y mae gennym ninnau ddau adroddiad am unigolion y gofynnwyd iddynt i roi gwybodaeth i'r heddlu am bobl na chyhuddwyd o'r un drosedd, ac nad ydynt yn ymwybodol o'r posibilrwydd fod dinasyddion cyffredin sy'n gweithredu ar ran yr heddlu yn cadw gwyliadwraeth arnynt.

Yr oedd yr heddlu cudd yn weithredol adeg arwisgiad y tywysog Charles ym 1969. Rhoddir y manylion am ddau achos lle bu *agent provocateurs* wrthi yn *Planet (12)* gan Dr Phil Williams ym 1969. Hanes "Scot" a fu'n gweithredu yng ngylchoedd y myfyrwyr yn Aberystwyth yw'r ail o'r rhain. Y mae'r myfyriwr a gafodd wahoddiad i "weithio dros yr heddlu" yn ystod Operation Tân yn byw yn Aberystwyth hefyd.

*"Pan oeddwn ar fin ymadael â swyddfa'r heddlu dywedodd un o'r ditectyddion, 'Nid 'mod i am geisio'ch temtio chi neu unrhyw beth felly, ond ydych chi erioed wedi meddwl am weithio dros yr heddlu? ' Gofynnwyd i'm gwraig hefyd i 'gadw'ch llygaid yn agored o gumpas y dref a gadael i ni wybod beth sy'n digwydd'".*

a

*"Gofynnwyd i mi hefyd a fyddwn yn fodlon erwi pobl wrth yr heddlu os clywn ni son am unrhywun".*

Gall gweithio dros yr heddlu olygu dim byd mwy na sbecian ar gymdogion a phobl sy'n weithgar yn wleidyddol ond os gellir credu hanes, dichon fod ymhlygiadau mwy ysgeler i'r gwahoddiadau a estynnwyd gan yr heddlu.

DULLIAU ADNABOD

a. Olion bysedd a ffotograffau

Dim ond mewn un o ddwy ffordd y gellir sicrhau olion-bysedd a ffotograffau. Y naill ffordd yw gyda chaniatad yr unigolyn, a bwrw fod y caniatad hwnnw wedi ei roi'n wirfoddol a heb orfodaeth. Y llall yw drwy

awdurdod ystatudol. Ceir hwnnw yn Neddf Llysoedd Ynadom 1952, adran 40 (fel y'i diwygiwyd) lle dywedir y gellir, gydag awdurdod y Llys Ynadon, ar gais Arolygydd neu swyddog o safle uwch na hynny, orchymyn i berson dros 14 oedd sydd yn y ddalfa ac wedi ei gyhuddo i roi ei olion-bysedd a/neu gael llun wedi ei dynnu ohono. Nid oes gan yr heddlu bwer i orfodi unigolion i roi deunydd adnabod iddynt dim ond er ehangu eu stor o wybodaeth. (Y Ddeddf Atal Brawychaeth yw'r unig eithriad i'r rheol hon, ond nid yw honno'n berthnasol i'r tri achos yr hysbyswyd ni ohonynt).

b. Printiau Llais

Yn fras, dibynna technegau lleisbrint ar broses o gymharu patrymau ac ar y ddamcaniaeth na fydd lleferydd dyn yn amrywio. Y mae hyn yn rhagdybio fod gan bob unigolyn batrwm lleferydd unigryw. Daeth yr Acoustical Society of America i'r casgliad, fodd bynnag, nad yw'r canlyniadau sydd ar gael yn ddigonol er profi y gellir dibynnu ar y broses o adnabod lleisiau drwy sbectogramau. Er bod y llysoedd yn dal i wrthod derbyn canlyniadau'r dull hwn fel tystiolaeth, y mae'r heddlu fel pe baent yn ei gael yn ddefnyddiol o safbwynt darganfod troseddwyr sydd yn rhoi negeseuon dros y ffôn.

Crybwyllwyd tair enghraifft o ddefnyddio dulliau adnabod corfforol yn yr arolwg; ni chyhuddwyd yr un o'r bobl dan sylw o dramgwydd troseddol yn ystod yr ymgyrch hon gan yr heddlu:

*"Dywedwyd wrthyf gan yr heddlu beth oedd fy hawliau ac fe'm gorfodwyd i roi fy olion-bysedd a recordiad o'm llais er i mi brotestio. Wedi i mi eu rhoi, cefais fod gennyf yr hawl i wrthod".*

neu

*"Cymerwyd fy olion bysedd a thapiwyd fy llais wrth i mi ddarllen neges fygythiol. Gofynnwyd i mi ysgrifennu neges fygythiol hefyd yn ymwneud â'r ddyfais yn X."*

neu *"Cymerwyd fy olion bysedd ac y maent yn dal gan yr heddlu. Rhydd ymgyrch arall fel hon gan ffntai'r wasg y cyfle i'r heddlu i gymryd olion-bysedd unrhywun nad yw'n credu yn athroniaeth y Toriaid".*

Cawsom wybod am un enghraifft bellach o roddi llwch ar gar un o'r drwgdybiedigion er ceisio sicrhau olion-bysedd.



MECHNIAETH

Y mae gan yr heddlu'r gallu i ryddhau ar fechnïaeth rywun a gymerwyd i'r ddalfa heb warant am dramgwydd troseddol. A siarad yn fras, gellir rhannu'r pŵerau hyn yn ddau ddosbarth: (i) pwer i fechnio rhywun i ymddangos ger bron yr ynadon; a (ii) pwer i fechnio rhywun i ymddangos yn swyddfa'r heddlu. Yn yr ail achos, er mai pwrpas adran 38 o Ddeddf Llysoedd Ynadon 1952 yw ei gwneud hi'n bosibl rhyddhau' r person a arestiwyd tra bydd yr heddlu'n cwblhau eu hymholiadau ni ddylid rhagdybio fod yma fwriad i ymestyn pwerau'r heddlu mewn unrhyw fodd. Yn yr achos hwn eto, ni fedr yr heddlu weithredu oddieithr ar sail achos rhesymol yn ôl diffiniad y gyfraith o hynny.

Yn ystod Operation Tan rhoddwyd mechniaeth gan yr heddlu mewn 13 o achosion, hyd y gwyddom ni. Cawsom wybod i'r heddlu hysbysu pedwar o'r drwgdybiedigion na fyddai angen iddynt ddychwelyd i swyddfa'r heddlu i ateb i'w mechniaeth, ac mewn achos arall rhoed y gorau i gyhuddiad o feddiannu cyffuriau nad oedd a wnelo ar warant chwilio am ffrwydron. Ceir trafodaeth ar fater mechniaeth a hawliau'r heddlu i gadw eiddo'r rheini a ddrwgdybir ar ddiwedd ein hadran ar chwilio a mynd ag eiddo ymaith.

CWYNO AM YR HEDDLU

A ydyw'r drefn ar gyfer trafod cwynion yn erbyn yr heddlu yn deg a chyfiawn o safbwynt yr heddlu a'r cyhoedd? Yn sicr y mae'r drefn sydd yn ymgorffori mesurau diogelu yn ôl y drefn briodol o safbwynt yr heddwas y gwnaethpwyd y gwyn yn ei erbyn, a gaiff weld datganiad yr achwynydd a chael cyfle i ymateb. Beth a ddisgwylir gan yr achwynydd? Rhaid i'r unigolyn ddod o hyd i wybodaeth gywir am y broses, rhaid iddo fod yn barod i fynd i orsaf heddlu i gofrestru'r gŵyn a bod yn barod i ddweud pwy ydyw wrth i'r gŵyn gael ei thrafod (ni dderbynnir achwynion dienw). Rhaid i'r achwynydd fod yn barod i gyfranogi'n llawn yn y broses, a all olygu rhywfaint o draul ariannol a chymdeithasol. Er enghraifft, gwyddys fod preswylwyr y slymiau yn llai tebyg o gwyno nag aelodau o'r dosbarth canol. Dim rhyfedd fod y rheini a labelwyd yn wleidyddol abnormal oherwydd eu bod yn perthyn i bleidiau neu fudiadau lleiafrifol heb fawr ddim hyder mewn trefniadaeth ar gyfer achwynion sydd yn golygu y gwneir yr ymholiadau dechreuol gan yr heddlu eu hunain a wedi hynny, gan Fwrdd Achwynion yr Heddlu sydd yn gyfyng ei bwerau.

Ni chyfeirir achosion i'r Bwrdd Achwynion i'w harchwilio'n fanwl hyd oni fydd yr heddlu wedi cwblhau eu hymholiadau hwy i gwyn, a wedi i ddirprwy brif gwnstabl benderfynu a ddylid disgyblu'r swyddog o dan sylw. Nid oes gan y Bwrdd mo'r gallu i ymchwilio ei gwynion na gosod cosb ddisgyblu ei hunan. Ni all ond gofyn am wybodaeth bellach ne fe all gyfeirio achos yn ôl at y dirprwy brif gwnstabl gyda gwrth-argymhelliad iddo ef ei ystyried. Dengys y ffigurau diweddaraf oddi wrth y Bwrdd y proseswyd rhyw 14,014 o gwynion ym 1979. Cymerai cwynion a dderbyniwyd gan yr heddlu 158 diwrnod i'w prosesu, ar gyfartaledd; cymerai cwynion a dderbyniwyd gan y Bwrdd oddiwrth yr heddlu ar ôl mynd drwy'r drefn briodol 28 diwrnod ychwanegol i'w prosesu, ar gyfartaledd. Y testunau cwyn mwyaf cyffredin yw ymosodiadau, afreoleidd-derau yn nulliau gweithredu'r heddlu (gan gynnwys Rheolau'r Parnwyr) ac anghwrteisi; cwynion felly oedd mwy na hanner y cyfanswm. Datganodd y Bwrdd fod 18 cwyn yn gofyn dwyn cyhuddiadau disgyblaethol yn erbyn heddweision. Mewn pum achos gweithredwyd ar argymhelliad y Bwrdd gan y dirprwy brif-gwnstabl priodol, ac o ganlyniad i hynny cafwyd tri heddgeidwad yn euog.

Dywedodd pump unigolyn yn ystod yr arolwg eu bod wedi achwyn yn swyddogol wrth yr heddlu. Y mae pedwar arall naill ai wrthi'n paratoi achwynion neu'n ystyried gwneud (rai ohonynt gyda chyngor cyfreithiol). Ymatebodd y gweddill yn y modd canlynol:

a. Ni ŵyr rhai sut mae mynd ati i gwyno.
b. Y mae gan rai brofiad blaenorol o'r drefn achwynion ac y maent wedi eu dadrithio ganddi.
c. Y mae rhai heb ddim hyder o gwbl yn y drefn.
ch. Teimla rhai y dialid arnynt am wneud (h.y. caent eu herlid gan yr heddlu).
d. Dywedodd un na fynnai greu trwbl iddo ef ei hun tra'r oedd ar fechniaeth.
dd. Cred nifer ohonynt y dylid ymgymryd ag ymchwiliad annibynnol.

*"Dylid ymholi i'r mater"*

neu

*"Credaf y byddai hynny'n anodd o gofio'r trefniadau sy'n bod eisoes ar gyfer ymchwilio i achwynion yn erbyn yr heddlu"*

neu

*"Dylem fod â'r hawl i gwyno wrth gorff cwbl annibynnol a di-duedd"*

neu

*"Y mae rhoi'r mater yn nwylo'r heddlu yn gofyn am i'r peth gael ei roi mewn coflen a'i anghofio"*



neu

*"Yr heddlu sy'n ymchwilio i achwynion yn erbyn yr heddlu"*

neu

*"Dylid cynnal ymchwiliad swyddogol a chyhoeddus i'r modd y bu'r heddlu'n gweithredu cyn i hyn ddechrau digwydd yn rhy fynych yng Nghymru"*

neu

*"Yr wyf eisoes wedi dilyn y drefn ffurfiol. Y mae'n gwbl ragfarnllyd ac nid oes gennyf ddim hyder o gwbl yn ei heffeithiolrwydd o safbwynt y cwynion".*

neu

*"Nid ydym o'r farn fod cwynó'n ffurfiol yn syniad da. Byddai'n debygol o beri mwy o drwbl i ni yn y dyfodol"*

neu

*"Wn i ddim bod unrhyw ŵr a'r drefn"*
*"Wn i ddim sut mae cwyno'n swyddogol"*
*"Wn i ddim digon ynglŷn â chwyno. Ychydig iawn o bobl a ŵyr".*

neu

*"Er gwaethaf rhai newidiadau diweddar, rwyf o'r farn mai ffars yw'r holl beth".*

neu

*"Yr wyf wedi ystyried hyn ond rhaid i mi ystyried effaith negyddol rhyw beth fel hyn ar fy mywyd yn gyffredinol ... nid wyf yn siŵr o beth i'w wneud".*

neu

*"Heddiw (8.4.80) mi fyddaf yn cwyno'n swyddogol wrth y Prif Gwnstabl gan nad oes gennyf ddigon o ddillad nac esgidiau i newid i mewn iddynt erbyn hyn. Os na fyddaf wedi derbyn fy nillad a'm hesgidiau yn ôl erbyn 18.4.80 bwriadaf ofyn i'r heddlu i dalu am bar o esgidiau, siwmper a throwsus i mi".*

Ar sail yr ymatebion hyn, ni ellir tybio fod pobl yn teimlo fod eu cwynion yn rhi bitw i'w hystyried o ddifrif, neu fod arnynt ofn ymholiadau i'w datganiadau. Y mae goslef yr ymateb fel pe bai'n adlewyrchu diffyg hyder yn y drefn i ymdrin ag achwynion yn erbyn yr heddlu. Y mae'r adroddiadau yn awgrymu cefnogaeth gref i ymchwiliad annibynnol i weithgaredd yr heddlu yn ystod Operation Tân. Dichon mai awgrym arall fyddai i gyrff annibynnol yn cynnwys aelodau o'r gymuned leol sefydlu cynllun tymor-hir i gadw llygad ar yr heddlu. Byddai'r awgrym hwn yn adlewyrchu'r gwir angodau, sef nad digwyddiad unigryw oedd Operation Tan, ond rhan o batrwm ehangach o heddgeidwadaeth.

# PATRYMAU HEDDGEIDWADAETH

## Y GANGEN ARBENNIG A 'GWYRBLEIDIAETH'

*"Y mae'r rhan fwyaf o wledydd democrataidd heddiw mewn mwy o berygl oddi wrth wyrbleidiaeth fewnol nag ymosodiad allanol. Y mae'n ddyletswydd clir ar eu llywodraethau i atal y rheini sydd â'u bryd ar danseilio democratiaeth rhag elwa ar y rhyddid a ganiateir iddynt gan y ddemocratiaeth honno. Y mae'n gwbl hanfodol fod yr heddlu mewn cymdeithas rydd yn nodi'n fanol weithgareddau agored neu ddirgel y perthyn iddynt yr amheuaeth leiaf o wyrbleidiaeth. Yn hytrach na phoeni am geisio cyfiawnhau bodolaeth Cangen Arbennig dylid ei gwneud yn glir fod unrhyw lywodraeth nad yw'n fodlon sefydlu a chynnal Cangen o'r fath yn methu yn ei dyletswydd i amddiffyn y rhyddid hwnnw yr ystyrir ei fod yn hanfodol i ddemocratiaeth. Bron yn ddieithriad, daw'r gwrthwynebiad i Ganghennau Arbennig oddi wrth grwpiau pwyso gwleidyddol hunan-benodedig y mae'r cyhoeddusrwydd a roddir iddynt yn y wasg yn eu hannog i drawsfeddiannu swyddogaeth y rheini a etholir yn ddemocrataidd i warchod a phennu terfynau ein rhyddid fel dinasyddion".*

(Syr Robert Mark, dyfynnwyd yn *State Research Bullein* Rhif 10, 1979).

Pwy fydd y Gangen Arbennig yn eu gwylio? Y mae'r ateb fel pe bai'n dibynnu ar gwmpas gweithredol y term "gwyrbleidiwr" *(subversive)*. Rhoddwyd y diffiniad modern safonol o'r term gan yr Arglwydd Denning yn ei adroddiad ym 1963 ar achos Profumo. Dywedodd mai gwyrbleidwyr oedd pobl "a fyddai'n ystyried dymchwel llywodraeth drwy ddulliau anghyfreithlon". Rhoddwyd y gorau i feini prawf manwl Denning ym 1978, yn un o'r ychydig ddadleuon seneddol a fu ar y Gangen Arbennig pan wnaeth Merlyn Rees, yr Ysgrifennydd Cartref ar y pryd, yr araith seneddol faith gyntaf gan Ysgrifennydd Gwladol i amddiffyn y Gangen Arbennig. Yn ystod ei araith, dywedodd mai gweithgareddau gwyrbleidiol oedd y rheini sy'n "bygwth diogelwch a lles y wladwriaeth, ac y bwriedir iddynt danseilio neu ddymchwel democratiaeth seneedol drwy ddulliau gwleidyddol, diwydiannol neu dreisgar".



Y mae diffiniad Rees yn disodli "dymchwel llywodraeth" yn niffiniad Denning gyda chyfres o bethau llawer ehangach a llai hawdd eu diffinio. Y mae'r rheini'n cynnwys gweithgareddau sy'n gwneud dim byd mwy na "bygwth diogelwch neu les" y wladwriaeth - nid dim ond y llywodraeth. Ehangir y dulliau, o ddulliau "anghyfreithlon" Denning i gynnwys "dulliau gwleidyddol, diwydiannol neu dreisgar". Adlewyrchir diffiniad Rees yn Adroddiad Prif Gwnstabl De Cymru am 1978 sy'n cyfeirio at "fudiadau brawychwyr neu wyrbleidwyr" yng nghyd-destun gwaith y Gangen Arbennig. Y mae arwyddocâd y cyfosodiad hwn yn amlwg. Ys dywed *State Research* y mae'n cyplysu "brawychaeth (sy'n golygu dulliau trais) a gwyrbleidiaeth (a all gynnwys, yn ôl y diffiniad swyddogol, POB gweithgaredd gwleidyddol a gweithgareddau'r undebau llafur) mewn modd cyfleus".

## CYNIGION I EHANGU PWERAU'R HEDDLU

Y mae heddgeidwadaeth wleidyddol yn arwydd o duedd yng ngwaith yr heddlu tuag at gasglu tystiolaeth a gwybodaeth o natur gyffredinol a dyfaliadol - tuedd a hyrwyddid yn fawr pe mabwysiedid cynigion Syr David McNee i'r Comisiwn Brenhinol ar Drefniadaeth Droseddol a fydd yn adrodd ddiwedd 1980 neu yn gynnar ym 1981. Arwydd o'r duedd hon yw'r symud oddi wrth gasglu tystiolaeth tuag at gasglu gwybodaeth, tuag at gadw gwyliadwraeth ar adrannau o'r gymuned y mae eu hymddygiad neu hyd yn oed y ffaith eu bod yn bod o gwbl yn ennyn drwgdybiaeth einheddlu a reolir gan ragdybiaethau asgell-dde. Fel y dangosir gan ei hadran ar holi gan yr heddlu, canolbwyntiodd ymgyrch yr heddlu yng Nghymru ar gasglu gwybodaeth o natur bersonol a/neu wleidyddol yn hytrach na rhoi terfyn ar weithgareddau troseddol. Fodd bynnag, dengys astudiaeth fanylach o gynigion Syr David McNee i'r Comisiwn Brenhinol, yn rhinwedd ei swydd fel Comisiynydd yr Heddlu Metropolitaidd, nid yn unig sut yr estynnir pwerau presennol yr heddlu yn answyddogol ond hefyd i'r fath raddau y cyfyngid ar hawliau dinesig pe rhoddid sêl bendith y gyfraith ar y pwerau estyngedig y mae ef yn eu harfaethu.

Yr "athroniaeth" sydd y tu ôl i dystiolaeth Syr David McNee i'r Comisiwn Brenhinol yw hyn: gan fod yr heddlu'n ei chael hi'n gyfleus i gamarfer y drefniadaeth bresennol, dylid cyfreithloni eu gweithgareddau, oblegid - beth bynnag fo barn unrhywun arall - dyna'r ffordd y maent hwy'n bwriadu mynd yn eu blaen. Eglura McNee fod yr heddlu wedi ei chael yn angenrheidiol "gweithredu yn y dirgel neu ddefnyddio trais yn anghyfreithlon" a'u bod yn bwriadu parhau i arfer y fath ddulliau "i ymdrin â throseddau" er gwaetha'r ffaith "fod y cyhoedd yn gyffredinol yn mynd yn llawer mwy ymwybodol o'u hawliau ac yn fwy difater ynglŷn â'u cyfrifoldebau". Yn wir, dadl McNee yw fod anwybodaeth y cyhoedd ynglŷn â hawliau dinesig wedi galluogi'r heddlu i ddefnyddio dulliau felly

o ymholi ers blynyddoedd lawer, ac ategir hynny gan y dystiolaeth yn ein harolwg, sy'n dangos cyn lleied y gŵyr unigolion am eu hawliau pan ofynnir iddynt wynebu'r heddlu yn ffurfiol, ac mor aneffeithiol y gall yr hawliau damcaniaethol hynny fod.

Y mae McNee am ddileu'r cyfyngiadau ar hawliau'r heddlu i chwilio, ac o dan ei gynlluniau ef, unwaith y caniateid gwarant i chwilio adeilad cai'r heddlu ddwyn ymaith unrhyw eiddo boed yn berthnasol i'r tramgwydd neu'r tramgwydd tebygol a ddisgrifid yn y warant ai peidio. Y mae'n cynnig y dylid gallu sicrhau gwarant i chwilio am dystiolaeth mewn ymchwiliad i unrhyw fath o dramgwydd troseddol, nid dim ond i'r rhai sydd ar y rhestr benodol bresennol o dramgwyddau.

Dengys yr arolwg y dygwyd ymaith beth wmbredd o eiddo teuluol a phersonol yn ogystal ag eitemau yn perthyn i fudiadau. Y mae llawer o'r eiddo hyn yn dal ym meddiant yr heddlu er ei bod hi'n anodd iawn sefydlu cysylltiad rhyngddynt hwy a difrod troseddol neu ffrwydron; ni chyhuddwyd neb o'r perchenogion. Yn achos Cofiwn, y gymdeithas hanesyddol genedlaethol, cadwyd ei holl ddeunydd cyhoeddusrwydd, papurau gweinyddol, llyfrau sieciau ac ati, a pheidiodd holl weithgareddau'r mudiad am y tro.

Byddai'n haws i'r heddlu archwilio cyfrif banc rhywun o dan gynigion McNee. Byddai'n rhaid i heddwas egluro wrth ynad "natur ei ymholiad, perthnasedd y cyfrifon banc o dan sylw a'r wybodaeth y gobeithiai ei chael drwy'r fath archwiliad".

Ehangid galluoedd yr heddlu i chwilio heb warant mewn mannau cyhoeddus. Byddai gan yr heddlu hawl i chwilio am "unrhyw beth a ddefnyddiwyd neu y bwriedir ei ddefnyddio i beri niwed i'r person neu ddifrod i eiddo" er gwaethaf ehangder rhemp diffiniadau o'r fath ac anhawster profi bwriad rhywun. Cai'r heddlu yr hawl i chwilio "os, oherwydd presenoldeb person mewn man neilltuol, y cred heddwas y gallai chwilio'r cyfryw berson gynorthwyo i atal trosedd ddifrifol neu berygl i'r cyhoedd".

Y mae'r cynigion hyn yn mynd â'r modd y bydd yr heddlu yn arfer eu pwerau yn ôl i gyfnod cynharach, llai penodol a mwy dyfaliadol yn y broses o gasglu tystiolaeth am drosedd. Y mae dau gynnig pellach o'r eiddo McNee yn pwysleisio'r duedd hon yn neilltuol. Byddai'r cyntaf o'r rhain yn rhoi'r hawl i swyddog hŷn i awdurdodi gosod atalfeydd ar ffyrdd a chwilio pob cerbyd modur a phob teithiwr yn ddi-wahân. Fe fyddai McNee yn rhoi'r hawl honno i swyddog pan fyddai'n "ystyried y gallai'r atal a'r chwilio ddwyn ffrwyth o safbwynt darganfod neu atal camweddau troseddol". Ar hyn o bryd breiniwyd ynadon â'r pwerau hyn; dangosodd yr arolwg fod ynadon wedi awdurdodi chwilio ar dir amheus mewn llawer achos.



Yn eilbeth, y mae McNee yn cynnig y dylai swyddog heddlu hŷn fedru gwneud cais i farnwr i orchymyn cymryd olion-bysedd "pob person neu gategori o berson yn byw neu'n gweithio o fewn y cylch a ddisgrifid mewn cais o'r fath" a hynny yn orfodol. Awgryma McNee y byddai cymryd yr olion-bysedd "yn debyg o fod o gymorth arwyddocaol i ymholiad gan yr heddlu i drosedd benodol neu gyfres o droseddau yn ymwneud â marwolaeth neu niwed corfforol difrifol". Gan y byddai'n orfodol rhoi olion-bysedd, y mae McNee yn cynnig y dylid gwneud gwrthod ufuddhau i orchymyn o'r fath yn dramgwydd troseddol newydd y gellir arestio dyn amdano. Cymerwyd olion-bysedd ar raddfa dorfol eisoes yn yr ymholiadau "Black Panther", sef olion-bysedd pob gwryw o fewn cylch daearyddol penodol. Er nad oedd hi'n dramgwydd troseddol i wrthod cyd-weithredu, yr oedd cryn bwysau cymdeithasol ar unigolion i ufuddhau. Pe doi prosesau adnabod ar y fath raddfa eang yn arfer cyfreithiol, gellid ehangu'r cylch o droseddau lle byddai cyfiawnhad dros eu defnyddio mor hawdd ag y daeth darpariaethau'r Ddeddf Atal Brawychiaeth yn dderbyniol "er lles y cyhoedd".

Y mae McNee yn cynnig y dylid cyfundrefnu pwerau'r heddlu i arestio a'u cysoni â'r pwerau arestio ad hoc ac ystatudol sy'n bod eisoes i roi pwer cyffredinol i'r heddlu i arestio ar sail amheuaeth resymol fod camwedd sy'n dwyn cosb o garchar wedi ei chyflawni. Yn erbyn y cysondeb pwerau a fyddai'n deillio o hynny, rhaid pwyso gallu'r heddlu i ddefnyddio pwerau difrifol yn gynnar iawn mewn ymchwiliad pe mynnent. Fel y dangosodd yr arolwg, fodd bynnag, ni chafodd yr heddlu yr un anhawster i arestio'r rheini a ddrwgdybid neu eu cadw yn y ddalfa. Awgryma McNee fod cynnig y dylid mynd â'r rheini a ddrwgdybir i swyddfa'r heddlu o fantais i'r un a ddrwgdybir yn ogystal ag i'r heddlu. "Rhoddir y cyfle i'r drwgdybiedig i gynnig eglurhad llafar neu ysgrifenedig am ei weithredoedd neu'r ymddygiad a barodd i'r heddwas ei ddrwgdybio, neu caiff gyfle i gyfaddef ei euogrwydd" ac "y mae'n fwy cyfleus i ymgymryd â'r holi cyfreithlon sydd yn rhan o ymchwilio i dramgwydd gyda'r drwgdybiedig yn swyddfa'r heddlu yn hytrach nag yn unman arall". Ond y mae ei gyfaddefiad dealledig fod y rheolau'n cael eu torri, cyfaddefiad a ategir gan dystiolaeth ein harolwg ynglŷn â'r modd y cedwid pobl yn y ddalfa, ac am ba hyd, yn codi'r cwestiwn - cyfleus i bwy? A sut bynnag, ni chafodd rhai heddweision lawer o anhawster i holi gwragedd rhai o'r carcharorion yn daer yn eu cartrefi eu hunain.

Nid yw McNee yn cynnig rhoi'r gallu i'r heddlu i gadw rhywun yn y ddalfa ddim ond er mwyn ei holi, ond y mae yn cynnig ymestyn yr amser a ganiateir i holi person sydd wedi ei gadw yn y ddalfa. Ar hyn o bryd, dylai person a arestiwyd naill ai gael mechnïaeth neu gael ei ddwyn gerbron llys ynadon o fewn 24 awr o'r pryd y'i harestiwyd, neu cyn gynted ag sy'n bosibl os cedwir ef yn y ddalfa dros y Sul. Carai McNee ymestyn y cyfnod

hwn i 72 awr, gyda chyfle am estyniad pellach o hyd at 72 awr arall gyda chymeradwyaeth un ynad yn unig. Y cyfiawnhad a gynigir dros y cynnig hwn yw nid yn unig fod holi'n cymryd amser, ond hefyd fod gan yr heddlu "waith arall llawn mor bwysig sydd yn rhaid ei wneud er nad oes a wnelo â'r ymchwiliad neilltuol hwnnw". Carem awgrymu y gallai'r rhesymau dros estyniadau o'r fath gynnwys yr amser a gymer i yrru'r drwgdybiedig bellteroedd maith o'r naill swyddfa heddlu i'r llall, i ddibenion sy'n dal yn aneglur oni bai am y ffaith fod gweithgareddau o'r fath yn cynyddu ymdeimlad y carchararor o ddryswch ac unigrwydd.

Carai McNee allu gwasgu mwy ar y rheini sydd yn y ddalfa i siarad, drwy wanhau Rheolau'r Barnwyr gan ddileu'r rhybyddiad presennol sydd yn caniatáu hawl i'r drwgdybiedig i gadw'n dawel. Y mae ef yn cynnig y dylid dweud wrth y drwgdybiedig pam y mae ef neu hi o dan amheuaeth (ar sail ein tystiolaeth yn yr arolwg mi fyddem ninnau'n cefnogi'r rhan honno o'r cynnig!), ac os nad etyb gwestyniau'r heddlu, "hysbysir y Llys o'r ffaith i chwi wrthod ateb a gall fod yn llai tebyg y credir eich tystiolaeth". O dan y fath reolau, y mae'n bwysicach fyth i berson a ddrwgdybir gael cyngor cyfreithiol, ond ni fyddai cynigion McNee yn ei gwneud hi'n haws iddo weld cyfreithiwr nag ydyw o dan y darpariaethau presennol (gweler yr adran uchod ar Reolau'r Barnwyr). Dengys yr arolwg yn eglur nad ydyw'r "darpariaethau presennol" yn ddigonol o gwbl os gellid dal pobl am gymaint â thridiau heb iddynt gael cysylltu â neb; mewn rhai achosion, camhysbyswyd eu teulu/cyfreithiwr/AS ynglŷn â pha le yr oeddynt. 'Diflannodd' pobl yn llythrennol led-led Cymru yn ystod 'Operation Tân' er gwaethaf ymdrechion dibaid cyfeillion a chydnabod i ddod o hyd iddynt.

Yr unig oruchwyliad a arfaethir gan McNee ar y gyfundrefn hon o holi, er rhwystro pobl rhag gwneud cyfaddefiadau neu ddatganiadau anwir, yw "gweithredu gan swyddogion hŷn." Fel yr eglurodd llawer o'r bobl a gymerwyd i'r ddalfa yn ystod "Operation Tân", y ffordd orau o ddisgrifio'r gweithredu hyn gan swyddogion hŷn oedd ei fod yn eiriol ymosodol, tra ymosodwyd yn gorfforol ar rai carcharorion eraill. Yn fynych, ymddangosai swyddogion hŷn yr orsaf fel pe baent o dan reolaeth swyddogion uwch anhysbys, neu dan swyddogion o'r tu allan i'r cylch a ddanfonasid i weithio ar yr ymholiad, fel bod posibilrwydd yr effeithwyd/ar hymddygiad tuag at yr unigolyn neilltuol gan ddylanwadau allanol. Beth bynnag y rhesymau am hynny, nid oedd ymddygiad rhai swyddogion hŷn yn unol â'r hyn a ddisgwylid o dan Reolau'r Barnwyr.

Nid yw McNee yn argymell ehangu neu ddiogelu dim mwy ar hawliau presennol person a ddrwgdybir. Y mae'n cefnogi datganiad digyfaddawd Cymdeithas Prif Swyddogion



yr Heddlu yn eu tystiolaeth i'r Comisiwn Brenhinol: "Nid oes angen mesurau pellach i ddiogelu hawliau'r rheini a ddrwgdybir". Eglura McNee yn dra manwl fod y trefniadaethau disgyblaethol, dinesig a throseddol sy'n bod eisoes yn rhoi digon o gyfle i'r achwynydd i unioni unrhyw gam a wnaethpwyd ag ef. Meddai Prif Gwnstabl Swydd Gaint, Mr. Barry Pain, ar Ebrill 3ydd 1980:

> *"Heb ddim amheuaeth, y mae nifer o bobl, yn fynych ar gyngor cyfreithwyr, yn cwyno'n ddi-sail yn erbyn heddweision i dynnu sylw pobl oddi wrth eu troseddau hwy yn erbyn y gyfraith a'i ganolbwyntio mewn man arall .... Ystryw gostus arall i'r trethdalwyr (yw'r cwynion hyn), ffactor arall eto sy'n llyffetheirio'r heddlu wrth iddynt geisio cyflawni eu dyletswydd".*

Y mae cynigion McNee wedi rheoli'r modd y cenfydd y cyhoedd waith y Comisiwn Brenhinol. Y maent wedi dylanwadu'n fawr ar gynigion gweddill yr heddlu. Yn ddiau, hwynt-hwy yw'r set fwyaf dylanwadol o argymhellion a dderbyniwyd gan y Comisiwn, a'r maniffesto modern mwyaf manwl o fwriadau'r heddlu wrth iddynt gyflawni eu gorchwyl pennaf, sef gweithredu'r gyfraith droseddol.

MESUR CYFIAWNDER TROSEDDOL (YR ALBAN)

Os yw argymhellion McNee fel pe baent yn ymwneud â'r dyfodol, fe'n cedwir yn ddiogel yn y presennol gan ddarpariaethau'r Mesur Cyfiawnder Troseddol (Yr Alban) sydd bron yn sicr o ddod yn gyfraith yn ystod eisteddiad presennol y Senedd. Y mae'r Mesur yn creu cysyniad newydd o "gadw yn y ddalfa" heb arestio, a fyddai'n galluogi'r heddlu i gadw unrhyw berson yr oedd ganddynt le rhesymol i ddrwgdybio ei fod wedi cyflawni tramgwydd y gellid ei garcharu o'r herwydd (sef y mwyafrif helaeth o droseddau) yn y ddalfa am hyd at chwe awr mewn swyddfa heddlu neu "unrhyw le cyhoeddus arall". Mater i'r heddlu i'w benderfynu fyddai caniatáu i'r carcharor weld cyfaill, perthynas neu gyfreithiwr, a gallent wrthod hynny "er lles yr ymchwiliad". Byddai'n rhaid i garcharor roi enw a chyfeiriad a gellid peri iddo ddadwisgo, ei chwilio, cymryd ei olion-bysedd a gwneud iddo ymddangos mewn rhengdnabod; ond dywed y Mesur na fyddai'n rhaid i garcharor ateb unrhyw gwestiynau eraill ac y dylid ei hysbysu o hynny gan yr heddlu. Fel yr eglurodd Richard Kinsey yn y *New Statesman* ar 29 Chwefror:

> *"Yn ôl Pwyllgor Thomson, y seiliwyd y mesurau hŷn ar ei argymhellion, gellid ennyn amheuaeth resymol gan 'gerddediad, ymddygiad neu ymarweddiad' y drwgdybiedig, neu gan 'unrhyw wybodaeth a fedd y swyddog am gymeriad neu gefndir y drwgdybedig'. Effaith hynny yw rhoddi pwer i weithredu fel y gwelont orau i'r heddlu nad oes iddo'r un terfyn gwirioneddol ac a fyddai'n gwneud y syniad o ragdybio dieuogrwydd yn ddi-ystyr".*

Ni fyddai'r drefn arferol ar ôl arestio h.y. cyhuddiad a danfon adroddiad at y *procurator fiscal* (yr erlynydd cyhoeddus annibynnol yn yr Alban) yn gweithredu mewn achos o gadw yn y ddalfa. Y cwbl y byddai'n rhaid wrtho fyddai cofnod o'r man cadw, y rheswm dros gadw yn y ddalfa a'r amser y cyrhaeddodd ac yr ymadawodd y carcharor (neu amserau ei arestio a'i gyhuddo). (Cofnod yr heddlu fyddai hwn ac nid oes modd i neb o'r tu allan archwilio'r rhain). Ar derfyn chwe awr (neu cyn hynny), byddai'n rhaid naill ai ddwyn cyhuddiad yn erbyn carcharor neu ei ryddhau. Ni chaniateid ail-garcharu ar yr un sail onid awdurdodid hynny gan ynad; yr ydym eisoes wedi sylwi ar y rhan a chwaraewyd gan ynadon yn Operation Tân.

Rhoddid hawl gyffredinol i'r heddlu i atal ar y stryd unrywun a ddrwgdybid o fod wedi cyflawni tramgwydd, i fynnu e i enw a'i gyfeiriad ac eglurhad o'r amgylchiadau "a barodd i'r cwnstabl ei amau", ac i atal a chymryd enw a chyfeiriad unrhyw un y credid fod ganddo wybodaeth am dramgwydd ddrwgdybiedig, er enghraifft, rhywun a allai fod yn dyst. Byddai'r Mesur yn creu tramgwyddau newydd sef gwrthod aros gyda'r heddlu neu wrthod datgelu enw a chyfeiriad (neu o roi gwybodaeth anghywir). Byddai hefyd yn rhoi i'r Heddlu y gallu i atal a chwilio unrhywun y credid ei fod yn cario arf bygythiol ac yn creu troseddau newydd, sef rhwystro'r heddwas rhag ei chwilio neu o gelu'r fath arf.

Yn y llysoedd, gellid peri i bobl a gyhuddid o gamweddau difrifol ac a fyddai'n ymddangos ger bron rheithgor, gael ymholiad barnwrol cyn eu prawf, lle gellid eu holi ynglŷn â'u hamddiffyniad. Pe gwrthodent ddweud unrhyw beth, neu pe bai anghysondeb rhwng yr hyn a ddywedent a'u tystiolaeth yn y llys wedi hynny, gellid dod â hynny i sylw'r rheithgor. Mewn prawf ger bron rheithgor, caniateid iddynt un her derfynol yn erbyn y rheithwyr posibl yn lle'r pump presennol. Gellid gwahardd y cyhuddiedig rhag bod yn bresennol yn ei (h)achos ar sail 'camymddygiad' a byddai'r achos yn parhau yn ei (h)absenoldeb.

Y DDEDDF ATAL BRAWYCHAETH (1976)

Y mae hawliau cyfreithiol i hel gwybodaeth wedi eu hen sefydlu yn y Ddeddf Atal Brawychaeth (1976) a basiwyd yn wreiddiol fel mesur dros dro ym 1974 ac a adnewyddir yn flynyddol bellach. Y mae ei mesurau llym yn rhoi hawl i gwnstabl heddlu arestio person heb warant os oes ganddo le rhesymol i ddrwgdybio (i) ei fod ef/ei bod hi yn perthyn i fudiad gwaharddedig neu'n cefnogi'r cyfryw fudiad a/neu (ii) ei fod ef/ei bod hi yn ddarostyngedig i orchymyn allgau a/neu (iii) bod a wnelo ef/hi â "chyflawni, paratoi neu annog gweithredodd brawychol" - boed a wnelo'r rheini â Gogledd Iwerddon ai peidio. Y trydydd categori hwn o ddrwgdybiaeth resymol sydd o ddiddordeb mwyaf unionglyrchol i ni.



Unwaith y caiff rhywun ei arestio, gellir ei (d)dal gan yr heddlu am hyd at 48 awr, a gellir estyn y cyfnod hwnnw bum niwrnod arall ar awdurdod yr Ysgrifennydd Cartref. Yn ystod y cyfnod hwn ni raid cyhuddo'r drwgdybiedig o'r un drosedd na'i ddwyn ger bron llys. Y mae Rheolau'r Barnwyr mewn grym o dan y Ddeddf, er y tanseiliwyd yr hawl i gadw'n ddistaw gan y drosedd o gadw gwybodaeth yn ôl. Unwaith y bydd person wedi ei arestio, caniateir i'r heddlu gymryd unrhyw gamrau "rhesymol angenrheidiol" ar gyfer adnabyddiaeth, gan gynnwys tynnu lluniau a chymryd olion bysedd. Gellir gwneud hynny hyd yn oed os na chydsynia'r drwgdybiedig, a heb orchymyn llys. Gellir defnyddio "grym rhesymol"oni chydweithreda'r drwgdybiedig. Yn ystod dwy flynedd gyntaf y Ddeddf cawsai 2,101 o bobl eu cadw yn y ddalfa gan yr heddlu am gyfnodau o hyd at saith niwrnod, a chroesholwyd pob un ohonynt, cymerwyd eu holion-bysedd a thynnwyd lluniau ohonynt. Sylwa Tony Bunyan:

> *"Canolir pob gwybodaeth am y gymuned Wyddelig ym Mhrydain bellach yn yr Uned Wybodaeth Wyddelig Genedlaethol sydd yn gyffelyb i'r unedau â gwasanaeth compiwtar a sefydlwyd ym 1973 i gadw gwyliadwraeth ar gymunedau o feinfudwyr a'r rheini y drwgdybid eu bod yn cymryd cyffuriau".*
> *(The Political Police in Britain,* Quartet, 1977, tud 292).

Adroddodd *State Research* ym mis Awst 1978:

> *"Er 1974, cyflwynwyd 125 o orchmynion allgau, 49 o'r rheini yn ystod y chwe mis cyntaf y bu'r gyfraith mewn bod. Ar sail y dystiolaeth sydd ar gael, y mae'n weddol amlwg, tra gallai rhai o'r bobl hyn fod â chysylltiad â brawychaeth mewn rhyw fodd, nad oedd hynny'n wir am lawer ohonynt. Yr oedd llawer ohonynt yn gefnogwyr di-drais i fudiad Gweriniaethol Iwerddon, a llwyr wanychwyd eu mudiadau cyfreithlon yn gwbl furiadol ac yn gwbl effeithiol drwy eu hallgau yn y flwyddyn gyntaf".*

Ar Fawrth 4ydd adnewyddodd y Senedd y Ddeddf am ddeuddeng mis arall. Pleidleisiodd ASau o 115 i 26 o blaid cynnig y llywodraeth i adnewyddu'r gyfraith. Mewn dadl fer, cadarnhaodd yr Ysgrifennydd Cartref ei fod wedi gwrthod yn derfynol i ddileu adran 11 o'r Ddeddf, sydd yn ei gwneud hi'n drosedd cadw gwybodaeth ynglŷn â brawychaeth yn ôl. Ar ôl arolygu'r modd y gweithiai'r Ddeddf ym 1978, argymhellodd adroddiad yr Arglwydd Stableton y dylid rhoi'r gorau iddi. Dangosodd ffigurau a gyhoeddwyd gan y Swyddfa Gartref ddiwedd mis Ionawr 1980 y cadwyd 857 arall yn y ddalfa ym Mhrydain ym 1979 o dan y Ddeddf. Cyfanswm y rheini a gadwyd yn y ddalfa o dan y Ddeddf er 1974 yw 4,521. Ni chyhuddwyd cymaint â 89% o'r cyfanswm hwn o dramgwyddo'n droseddol na chyflwyno gorchymyn allgau iddynt (4,031 allan o 4,524). Ym 1979, fodd bynnag, disgynodd y gyfartaledd hon yn is na'r un flwyddyn flaenorol i 82%. Ymddengys fod dwy brif ffordd o arestio o dan y Ddeddf: arestio yn y berfeddwlad, sydd yn fwy tebygol o arwain at gyhuddiadau pellach, ac arestio yn y porthladdoedd sydd

yn ei hanfod yn ddull o gasglu gwybodaeth a chadw gwyliadwraeth ar bobl.

Y mae'n bwysig nodi nad at Wyddelod yn unig y cyfeiria'r term "brawychwr". Galwyd nifer o'r rheini a gadwyd yn y ddalfa yn ystod Operation Tân yn frawychwyr gan yr heddlu, er iddynt gael eu gollwng yn rhydd wedi hynny.

DAROGAN Y DYFODOL

Sut y dylid dehongli canlyniadau'r arolwg ar Operation Tân? Ai un digwyddiad ar wahan oedd y cyrchoedd, y byddai'n well anghofio amdano, neu ei weu i mewn i hanes modern Cymru ? Credwn fod rhesymau cryf dros feddwl yn gliriach am ymhlygiadau gweithgareddau o'r fath gan yr heddlu, a gweithgareddau eraill llai trawiadol o'u heiddo sy'n ymdoddi'n rhwydd yn rhan o fywyd beunyddiol. Y mae Martin Kettle yn crynhoi:

*"... caniatawyd i'r heddlu i redeg eu sioe eu hun, i wneud eu diffiniadau eu hunain ac i weithredu tan gochl rhethreg o'u dewis eu hun. A pa beth bynnag y penderfynant hwy ei wneud, drwy ddiffiniad, yn rhywbeth sydd o fudd i 'gyfraith a threfn' a felly i 'gymdeithas' hefyd. Y mae'r neb sy'n eu gwrthwynebu, drwy'r un diffiniad, yn 'wrth-heddlu', ac oherwydd hynny yn elyn i 'gyfraith a threfn' a felly yn elyn i'gymdeithas' hefyd. Gosodwyd rhai adrannau mewn cymdeithas yn dŵt yn y categori hwnnw eisoes: gwrthdystwyr, piceduwyr, meddiannwyr tai gwag, pobl groenddu, pobl hoyw, pleidwyr hawliau gwragedd, mewnfudwyr, y Gwyddelod. Nid oes reswm yn y byd i gymdeithas rydd oddef hynny. Oni sylweddolwn ni bwysigrwydd parhau trafodaeth wirioneddol ynglŷn â'r heddlu (gyda'r heddlu'n cymryd rhan, wrth gwrs) yn rhydd o waharddiadau ynglŷn â chymysgu gwleidyddiaeth a heddwasaeth, yna fe dyf y rhestr yn hwy fyth".*
(*Policing the Police*, Cyf 2 (gol) Peter Hain, John Calder, 1980 tud. 59).

Dadleuwn ninnau fod yr arolwg yn dangos fod y rhestr eisoes yn hwy. Ond boed i Brif Gwnstabl Swydd Gaerhirfryn, Albert Laugharne, gael y gair olaf:

*"Y mae gweithgareddau'r heddlu ar raddfa eang, megis y rheini sy'n deillio o derfyseg hiliol a gwleidyddol, erlid brawychwyr a throseddwyr treisgar - yn wir, bron pob agwedd o heddgeidwadaeth fodern - wedi yegwyd o feddwl yr heddas wnrhyw hen syniad a oedd yno, o boeib, y dylai, am resymau hanesyddol, fod yn rhan o fudiad llira. Gŵyr na fedr wynebu nifer o'i broblemau newydd ond o dan gyfundrefn gydlynnolo reolaeth a all ymateb yn gyflym wrth i angylchiadau newid. Y mae'n sylweddoli hefyd fod ehangu ei ancanion, a'r pwerau newydd a roddir i'r heddlu wrth i broblemau modern ffyrnigo, yn ei gwneud hi'n anniogel iddo lynu'n rhy gadarn wrth yr hen gred mai'r cwbl ydyw, ya dywed yr hen air, 'yw person a delir i weithredu, fel mater o ddyletswydd, mewn modd y gallai fod wedi gweithredu ynddo*



*yn wirfoddol, pe bai wedi dymuno gwneud hynny'. Y mae'r bwlch rhwng perau dinasyddion o dan y gyfraith droseddol a phwerau'r heddlu yn ehangu".*
(*Police*, Mai 1979).

# OPERATION

# FIRE!

£1.25

# PREFACE

This report is sponsored and published by the Welsh Campaign for Civil and Political Liberties. It is an attempt to extend public knowledge about the effects of the police exercise mounted on a national scale towards the end of March and early in April, which has been dubbed by the press 'Operation Fire'. Those who initiated this campaign on April 1st include members of Cardiff Direct Action Movement, International Marxist Group, Cymdeithas yr Iaith Gymraeg (Welsh Language Society), Labour Party, NCCL (Cardiff branch), Plaid Cymru, Welsh Socialist Republican Movement, trades unionists, academics and other interested individuals. At that first meeting we were mandated to produce a report as soon as possible, and we have completed it within a month.

The speed of production has been made possible through the support and co-operation of the following people: Paul Downton, Dafydd Elis Thomas MP, Dafydd Wigley MP and Dafydd Williams. Special thanks are due to Gwerfyl Arthur for speedy typing, Siân Edwards for translation from English to Welsh at the same speed, Aled Eurig for providing background material and Martin Kettle for allowing us to quote extensively from his commentary on evidence to the Royal Commission on Criminal Procedure in Policing the Police, Vol. 2. Our greatest thanks go to all those who returned our questionnaires at such short notice; nobody enjoys form-filling and we know how much we asked of them in the time allowed. Without their co-operation we could not have written the report - we hope they feel their efforts were worthwhile.

The report is priced at £1.25. However, donations are welcome to clear a print bill of over £900 and thereafter finance the WCCPL programme. Please send any contributions to the fund via our treasurer who lives c/o 16 Shirley Road , Cardiff.

Selwyn Jones (Chairman, WCCPL)
Penny Smith
Philip A. Thomas

April 30th 1980

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# INTRODUCTION

On April 1st 1980 a meeting was held in Cardiff to discuss ways in which police activities concerning the nationwide investigation of the arson incidents at holiday homes and the bombs planted at Shotton and Cardiff Conservative party offices might be examined and publicised. This police exercise has been dubbed by the press 'Operation Fire'. On the same day Detective Chief Superintendent Pat Molloy, head of Dyfed-Powys CID said:

*'Those who criticized police behaviour would be wise to bite their tongues until the full facts are known.'*

At the first meeting we were delegated to prepare a report which would record the experiences of those detained or arrested and interrogated at the end of March and early in April. The group decided we should move the debate from the level of anecdote and ultimately legend to one of fact and public information.

We see this report as a contribution to the wider debate of the role of the police in a democratic community. Clearly, Operation Fire (which involved the four Welsh police forces in a national exercise on a specific issue over a short period of time) helps focus our attention, but we do not think that it should be treated as an isolated or exceptional event. The police programme was well co-ordinated and produced results within their own terms of reference. For example, they now have a better understanding of individuals' voting preferences in Blaenau Ffestiniog after house to house enquiries were made regarding votes cast in the last general election. Likewise, the names and addresses of people listed in personal papers seized from those detained or arrested will have found their way into the National Police Computer. Despite the circumstances of their interrogation, none of the 52 people we have contacted was charged with offences of arson or criminal damage. While we reject arson as a form of political expression it seems likely that the police were unsuccessful in their dragnet exercise to locate the guilty parties. However, an alternative explanation of Operation Fire may be that the arson campaign was an ancillary feature of an exercise which can best be described as political intelligence gathering. If that was their principal purpose then the police may have scored a success.

We place before you the reported experiences of those who were detained or arrested, searched, interrogated and stripped of their personal possessions; we ask you to reach your own conclusions as a result of their statements.



We make no recommendations in this report save that everyone who reads it considers the implications for the present and the future of a more powerful police force in a recession economy. We hope that the report will be interpreted as a positive contribution to that debate.

# SECOND HOMES IN WALES

Second homes or 'holiday homes' have been a controversial issues in Wales for the past decade. Yet the British press has only taken a sustained interest in the problems such home ownership creates since the recent arson attacks on second homes in Wales. Those who allege to have burnt second homes have stated that they are opposed to both Welsh and English people buying second homes while many local people have no first home.

The sudden increase in the number of second homes occurred at the end of the 1960s and early in the 1970s and resulted in inflated property prices. At first, houses were bought in comparatively rural areas, but gradually even properties in the heart of villages and towns were purchased as second homes. Wales has 20,000 second homes and a council house waiting list of 50,000 but both official figures are generally regarded as conservative estimates. Allocation of housing funds by central government for 1978/9 showed that Welsh local authorities were actually allocated a total of £101million for housing investment, which was £74 million less than needed according to official figures. The local authority's description of housing conditions in Dwyfor, one of the most scenic areas in Britain, reflects the problem:

> *'The figures themselves show a surplus housing stock in the district, with about 12,650 houses for about 9,500 families. However, it is understood that local people have difficulty in buying suitable homes - that is because high prices in the district are coupled with a low average income. Gwynedd's average income was about 88.9% of the British average in 1975. Council houses are very often the only choice for a young family.'*

In Gwynedd alone there are 7,000 second homes while 4,269 households are on the waiting list for council homes. Shelter reported recently that Gwynedd councils are amongst the slowest house builders throughout Britain. However, a major concern is that Welsh speaking areas in west and north Wales are in danger of being no more Celtic than the Lake District or Cornwall and this is a prime issue which has provoked the recent campaign of arson attacks on second homes.

The campaign against second homes by Cymdeithas yr Iaith Gymraeg (Welsh Language Society) commenced in July 1972 when an auction of houses in Caernarfon was disrupted by members protesting against outsiders buying homes which the local people could ill afford. A week later Labour



opposition in the House of Commons attacked provisions in the 1969 Housing Act which permitted second homes owners to claim improvement grants. The Society's campaign of occupation of second homes continued in the summer of 1973. In the 1974 Housing Act Parliament amended the 1969 provisions for improvement grants so that second home owners no longer qualified.

Cymdeithas Tai Gwynedd (the Gwynedd Housing Association) and Adfer (a nationalist group which now campaigns to establish a monolingual Welsh society in west Wales) established housing programmes in the early 1970s, encouraging voluntary co-operation within local communities for the sale or donation of properties to housing associations which would improve the houses and rent to local people. However, the slow development of housing associations in rural Wales before the recent public expenditure cuts meant that such programmes had very limited scope, although they still maintain their programme on a small scale.

From 1974 onwards the Welsh Language Society concentrated on persuading local housing authorities to buy houses on the open market and rent them to local people. Second homes were considered as a symptom rather than a cause of rural decline but in 1976 more second homes in the 'ghost' village of Rhyd in Merionnydd were occupied by members of the Society as a symbolic protest against inadequate housing provision for local people in rural areas. After more occupations in 1977 several members appeared in Caernarfon Crown Court for occupying a holiday home, and were later imprisoned for non-payment of fines. The Society later attempted to step up its campaign against second homes but a 1978 annual conference resolution for a campaign of 'limited damage' was not implemented: a fourth television channel for Welsh programmes became the major focus for the Society's activities.

On April 9th 1980 Wyn Roberts, Parliamentary Under Secretary of State for Wales, stated that expenditure cash limits in Wales for the Housing Corporation and housing associations would be cut by 3% in 1980/81 from the 1979/80 figures (£28.8 million and £24.8 million respectively) and that this reduction compared with a 12% reduction in the total housing budget for Wales for the same period. Press comment has suggested that these cash expenditure limits represent a cut of nearer 30% for 1980/81 and 45% over the next two years, and it is estimated that by 1984 there will be no new housing programme.

The recent wave of attacks on second homes sheds light on the Principality's chronic disadvantages, of which housing is only one. A month before the beginning of the arson attacks the British Steel Corporation announced the partial closure of Port Talbot and Llanwern with the

consequent loss of 11,337 jobs. Shotton steelworks in north Wales is also due to close. Together with the effect of steel closures on the coal and other associated industries, the total redundancies expected as a result of the steel closures will be over 50,000, which is a 50% increase on Wales's present unemployment figure of 92,757. Standards of economic investment, health care, education, housing and social services are consistently below average for the whole of England and Wales. These factors, combined with such a massive increase in unemployment, already have enormous social consequences. A return to the social and industrial depression of the 1930s is now a realistic possibility, but discontent is not confined to the industrial areas of south and north-east Wales, as the arson campaign in rural areas shows.

The first arson attacks occurred on December 13th 1979. By 1st February 1980 fifteen houses had been attacked by arsonists, and Detective Superintendent Gwyn Owen had been appointed to lead the investigation in Gwynedd. (D.S.Owen worked on the 1969 police operations during the period leading to the Investiture of the Prince of Wales in July 1969, of which more later). By April 28th the number of arson attacks on second homes had reached thirty-seven.

On April 25/6th sixteen members of the Welsh Language Society occupied a holiday home near Aberystwyth for 12 hours; the occupiers handed over a signed statement accepting joint responsibility for their action when the police arrived, but at the owners' request no charges were brought and the campaigners left voluntarily. Other members went to estate agents' offices in Aberystwyth and Aberaeron and took away materials advertising second homes for sale. Police have questioned those involved. These activities mark the beginning of a campaign against estate agents selling second homes, companies which own holiday homes and local authorities which could be buying second homes on the open market (although the Society recognise the problems raised by expenditure cuts imposed by central government).

POLICE INTELLIGENCE OPERATIONS IN WALES

During the week beginning March 24th the police made a number of detentions, arrests and searches in their apparent efforts to identify the arsonists. The operation climaxed in well co-ordinated dawn raids throughout Wales on Sunday, March 30th. Police activities included comprehensive searches of accommodation and seizure of household items and personal property which could have no possible connection with an arson campaign. Approximately 50 people were detained or arrested and held for periods up to three days without their families, friends or lawyers knowing where they were kept. Much of the police questioning during this period was political or



personal and in many cases not related to the arson incidents. Property seized during the raids has not been returned in many cases, although only four of the total held during the raids were charged and remain in custody. North Wales police enquiries into the arson campaign included door to door investigations in Blaenau Ffestiniog about political affiliations and votes cast in the last general election. Police also set up roadblocks in north Wales, especially at night. Clearly,we are unable to tell the full effect of the police operations on individuals and their families, nor can we assume that police enquiries are completed, as many of those arrested have to report back to police stations in early May.

Those detained, arrested and searched included members of nationalist movements such as Adfer (which campaigns to establish a monolingual Welsh society in the west of Wales); Cofiwn (which commemorates prominent figures and events in Welsh history); the Welsh Socialist Republican Movement (which consists of members of Plaid Cymru and the Labour Party). Other nationalists who were linked with protests against the 1969 Investiture of Prince Charles as Prince of Wales were also arrested. Some members of the anarchist Cardiff Direct Action Movement were arrested or detained and searched on March 28th after the bombs were planted at Shotton and Cardiff Conservative HQs. This was not the first occasion for intensive police operations in Wales related to political issues. The most blatant political use of the police in Wales in recent history occurred in 1969; those police operations beg comparison with the recent raids.

In 1968 the Labour government decided to hold the Investiture of Charles, the Queen's eldest son, as Prince of Wales on his 21st birthday in 1969. Many enraged nationalists protested against a 'foreigner' who was seen to be 'usurping' the crown of the Prince of Wales. Though the majority of protests were peaceful, a number of bombs were exploded. Mudiad Amddiffyn Cymru (Movement for the Defence of Wales) were responsible for these explosions under the leadership of John Jenkins who was later sentenced to ten years gaol. Nine members of the Free Wales Army were prosecuted in Swansea in a case which lasted almost two months. The F.W.A. wore special military uniforms and gained widespread publicity in the British and international press. Their success as self-pub licists made detective work much easier, but for many the case had a political note. The nine were pulled from their beds in the early hours of 26th February 1969 and charged under the Public Order Act and with possession of firearms. The case finished in Swansea Crown Court on 1st July (the day of the Investiture) and was the longest but one in Welsh history. The *New Statesman* noted:

*"It is quite relevant to ask why this case - involving the second application in over 30 years of the Public Order Act - was brought when it was; why it was at one time suggested that it might be recessed until September; whether the sentences are as lenient as the judge claimed (15 months in gaol was the most extreme sentence) as compared with the normal sentences for 'non-political' possession of unlicensed firearms - and taking into account the months the accused have already spent in prison. The answer might suggest that power as well as justice was on public display".*

But the most overtly political activity of the police during this period was the widespread and obvious use of 'heddlu cudd' or 'secret police' as they were known at that time. Detective Superintendent Jock Wilson from Scotland Yard was appointed in 1968 to supervise security arrangements during the period of the investiture; he established his HQ at Shrewsbury. The 'heddlu cudd' in fact comprised both the ordinary detectives and members of the Special Branch. Their activity reached its peak during the week of the investiture itself. A 24-hour watch was kept on dozens of nationalists in all parts of the country. This involved six officers per nationalist, each pair working an 8-hour stint. Each person under surveillance was given a special number, and reports concerning the 'extremist's' movements would be transmitted to base through an internal telephone. This activity would be totally open and some of those under surveillance would often see no point in driving two cars everywhere so would let the police drive them to their destination. One estimate put the number of those surveyed at 200 including Gwynfor Evans, then MP for Carmarthen. In the Aberystwyth area, where the Prince went to college for an eight-week period, the town crawled with policemen and at least one agent provocateur, who was alleged to be linked with either the police or the security services, attempted to foist a quantity of explosives on some nationalist students.

Memories of such open and public contravention of individual freedoms by the police in 1969 explains to some extent the anxiety expressed after the latest police raids. As the editor of *Y Cymro* said on 8th April:

*"It is obvious that there is not one shed of evidence against the majority, and that there is some basis for one of the slogans of 1969, 'It is an offence to be a Welshman'".*

During the 1970s concern was expressed about two specific matters which threatened to curtail the civil rights of some nationalists. Firstly, the ready use of the conspiracy charge against Welsh language protestors, and secondly, police interference in choosing a jury during the Crown Court case against two prominent members of Cymdeithas yr Iaith Gymraeg (the Welsh Language Society). Two conspiracy trials were held in 1971 and another in 1978. The main criticism of the conspiracy



charge is that it gives the prosecution two advantages First, the possible sentence for conspiracy to act is heavier than for that of the act itself; second, the police are able to undertake a dragnet investigation. In addition, those who were prosecuted seem to have been chosen because of their status within their relevant movement, society or trade union rather than because they were necessarily guilty of perpetrating a specific crime.

The jury failed to reach a verdict during the conspiracy trial in July 1978 against two officials of Cymdeithas yr Iaith Gymraeg and a re-trial was held in November 1978. The defendants alleged during the first trial that a police officer had signalled to the prosecution counsel which jurors should be opposed, but the final list of names reflected the Welsh population of the Carmarthen area: Williams, Hughes, James, Phillips, Roberts, Griffiths, Jones, Matthews, Davies, Williams, Williams and Williams. The final jurors' list for the second trial comprised: Andrews, Carlisle, Pringle, Hanson, Allen, Amner, Birdwood, Adams, Day, Curwood and Brooks. As the *New Statesman* reported on 7th December 1978:

*"The bias in the Carmarthen case was less innocuous, as the subject was a quasi-political trial centring on the Welsh language. A previous trial - with an almost totally Welsh and Welsh-speaking jury - had resulted in no verdict and this was the re-trial. Forty jurors were summoned in the 'panel' for the new trial; of these, only 40% had Welsh surnames. THE ODDS AGAINST SUCH A LOW PERCENTAGE BEING SELECTED PURELY AT RANDOM ARE ABOUT TEN THOUSAND TO ONE ... It is certainly remarkable, in a case of considerable political sensitivity, to find jury selection in the hands of people who would be millionaires if they applied their powers of overcoming lengthy odds to the turf".*

Five months later, it was officially recognised that jury-vetting had occurred. Dafydd Elis Thomas, MP for Meirionnydd, received a letter from Lord Belstead of the Home Office:

*"The Home Secretary has received a report from the Chief Constable of Dyfed-Powys, who appointed a senior officer to investigate the matter. The investigation showed that a police officer of junior rank, acting without authority, did in fact obtain a copy of the jury list an hour before the re-trial began and undertook a limited check. The check did not disclose any information of relevance either to the prosecution or to the defence, and no further action was taken".*

Political activity by the police in Wales is clearly not a new phenomenon, but that doesn't make such practices any more acceptable, as the evidence we present from the recent police operations will show. Several

people have reported that they feel their reputation in their local community and at work has been damaged. One suspect lost his job as a result of his arrest and the police search, although no charge was brought against him and his bail date has been dropped. Many fear that they will be branded as 'extremists', as were some nationalists active during the 1969 intelligence operation, and they know now how long such a label sticks. Similar patterns of policing have already been established under the Prevention of Terrorism Act and will be made much easier if and when police powers detailed in the Criminal Justice (Scotland) Bill are extended to England and Wales.



SAMPLE OF QUESTIONNAIRE

1. What time(s) and date(s) were you approached by the police?
   *Sunday morning 30 March 1980 at 6 a.m.*

2. Where did this approach take place: e.g. work, street, home etc. ?
   *At home*

3. Where the police uniformed and/or in plain clothes, and how many policemen were there?
   *Eleven policemen, two or three in uniform.*

4. Was any police identification offered, or if you asked for police identification was any provided?
   *One sergeant displayed his identity card.*

5. Did the police specify grounds for their visit, e.g. specific activities/offences/legislation e.g. Prevention of Terrorism Act etc.?
   *"Arrest" for criminal danage - my wife and myself*

6. Were you arrested or 'invited to help the police with their enquiries'?
   *We were arrested*

7. Were you informed that you would be arrested if you refused the police invitation to accompany them voluntarily?
   *Not much choice!*

8. Was any pressure brought to bear to encourage you to accompany the police to a police station? If so, describe briefly.
   *Compulsion.*

9. Were any family/friends/colleagues present during the police visit? If so, how did the police treat them?
   *Only my wife and later the three children.*

10. Did a search of your car/accommodation/other property occur? If so, was a warrant shown?
    *The house and business premises were searched extremely thoroughly and both cars were taken away. A warrant was shown.*

11. Was any of your property taken away? If so, specify what and when. If it has been returned, specify date and condition.
    *About 50 items that day. Only four items have been returned to date (7 April 1980).*

12. Did a search of your person occur, If so, state (i) when i.e. before or after arrest; (ii) where;

(iii) was a warrant shown?
*Yes; after the arrest; in the house and then in X police station; no special warrant was shown to search my person.*

13. Were you taken to a police station? If so, where and at what time and date?
*About 7.30 p.m. on Sunday Morning March 30th to X, and then on to Y.*

14. Did the police inform any friends/family/colleagues present where you would be detained? Was that information accurate?
*No. My wife was told but none of the family (as she was also in custody she couldn't pass the information to anybody else).*

15. Were you informed by the police of any rights you might have during detention? If so, what were you told and when?
*In X I was told that there was a right to contact one person but that they (the police) were abolishing this right as it would 'impede the course of justice'!!*

16. Did you request to contact family/friends/solicitor by telephone at any stage? If so, state when, ie before and/or at the police station.
*Yes. 1. In the house. They didn't allow me to contact my wife (who was in bed) before leaving. 2. In X. Refused (see answer 15). 3. In Y. Refused/Ignored. Words like 'Oh, that's in the hands of the police in X. Nothing to do with me. You will be taken from here when they're ready'.*

17. If you were not allowed such contact, what reason(s) were given and when?

18. Did your family/friends/solicitor attempt to contact you by telephone or otherwise at the police station? If so, was access allowed and when?
*Several attempts were made by my brother and some lawyers, all were unsuccessful.*

19. If access of family/friends/solicitor was not allowed, what reason(s) were given? Were you told by the police if any attempts were made by such people to contact you?
*I was told nothing at all. I didn't even know that my wife was in custody. I did not understand that an "arrest" necessarily entailed detention in custody.*

20. Were you detained in an unlocked/locked: room/cell/other place? Please specify.
*A locked cell until about 7.30 Monday night March 31.*



21. If you were not arrested, did you request to leave during your detention, and after how long? If so, what was the police response to your request?

22. What facilities were provided for you at the police station during your detention, e.g. food, writing facilities, space etc?
*Food, nothing else. Only two torn blankets. My watch was taken, my belt and in X my shoes.*

23. Were you asked to account for your movements at certain times and/or asked for names and/or asked whether you knew certain people named to you by the police and/or asked about membership of a specific political party or movement? What other questions were you asked (brief details).
*I was questioned very thoroughly (about 9.30 p.m. Monday night March 31st in X by a detective and a sergeant about a. all sorts of documents/letters/addresses which they had seen at my business address, and b. my recent movements, on foot and in the car, particularly in the week before and the Saturday night (March 29th). Plaid Cymru was not mentioned. However, I was questioned very thoroughly as to my knowledge of the movement 'Cofiwn'.*

24. Were you threatened if you failed to co-operate during tetention? If so, what form did these threats take?
*I was threatened very offensively by a senior officer. He said that I would be jailed for life and I would have 'the most unforgettable interrogation of your life' after having been taken to a cell ' in an adjoining building' (putting it all in a nice way!) My glasses were thrown on the bed; 2 policemen threw me onto the bed when I refused to take off my shoes. This happened in X about 8 o clock Sunday morning 30th March.*

25. Were you subjected to physical and/or emotional stress. If so, specify and describe briefly, and at what point(s) during your detention this occurred.

26. Did the police stress that you would be charged? If so, at what stage of your detention?
*It was suggested very strongly that I would be charged at this time but I was not in fact charged at all.*

27. Were you charged with a criminal offence? If so, what was the charge, and when did it occur during your detention?

28. If the answer to (26) and/or (27) above is 'yes', did the suggested/actual charge(s) relate to the original police justification for your detention?

e.g. drugs charges after original enquiry about arson incidents.

29. If arrested and charged, were you granted bail? (i) did the police offer bail, or (ii) did you/your family/friends/solicitor have to ask for bail?
*No*

30. If you were not charged, were any conditions made before allowing your release? e.g. agreement to report regularly at a police station.
*No, no conditions at all.*

31. What time and date were you released?
*About 9.30 p.m. Monday night 31st March.*

32. Were you offered any facilities by the police after your release? e.g. transport home if appropriate.
*I was offered a lift, but I refused as my brother had arrived by this time. (He knew that I was in X through my wife who had by this time been released).*

33. If you consider your civil liberties were restricted as a result of the police visit/detention, please state in what way(s).
*I do, I was completely innocent and the police had no evidence at all against me. It was obvious that their intention was to collect evidence after the arrest. This is a horrific misuse of 'arrest'. This means that the police have the right to lock anyone up, any time (and search his house without permission).*

34. If the answer to (33) above is 'yes' (i) do you intend to lodge a formal complaint against the police? (ii) have you already lodged a formal complaint? (iii) do you have an opinion about the procedure for formal complaints against the police?
*(i) yes (ii) yes*

35. Do you wish your answers to this survey to be disclosed to your MP?
*Yes*

36. Please state expressly if you wish Dafydd Elis Thomas to make use of your unpublished response to this survey?
*By all means*



SAMPLE LETTER

*Dear*

*I am writing to express my concern about the conduct of the police during the 'raids' which occurred last weekend. I was arrested very early about 5 o'clock in the morning on the 30th of March, and I wasn't released until the following Tuesday 1st April. I was arrested in a most spectacular way, with 4 - 6 police in plain clothes as well as a police woman in uniform bursting into my bedroom after breaking into the flat through three locked doors.*

*I was told to dress during which time there were police coming in and out of the room. During the whole time there were four of them in my bedroom. I insisted on seeing a warrant and in the end I was shown one saying that they were searching my flat as I had caused a quarter of £million worth of damage to property.*

*They started to search the flat while I was there and I understood that they had been searching there for a whole day after I had been taken to X. Two purses and a shoulder bag as well as three diaries were taken from me before I left the flat, I didn't receive a receipt for them.*

*I was searched in X, asked to give the name of one person I could contact, when I gave a name I was told that this person wouldn't be allowed to contact me until the investigations had finished. I was put in a cell after which a senior officer came in, told me in a nasty way to stand against the wall, gave me a long speech of how he hated terrorists, repeatedly stated some of the schemes that had been organised at the Cofiwn conference on Saturday in Machynlleth, asking me if they rang a bell... I was told that I was a terrorist and as such had no rights. I was also told that I would be questioned for a very long time and that everything would get very nasty before the end. Then I was taken to Y where I was put in a cell and not told what was happening until Monday afternoon. I was questioned in the cell and then I was questioned again Monday night.*

*I was taken back to X Tuesday morning by a senior officer, a terrible journey with him judging all the members of Cofiwn. I was interrogated again in X and put back in a cell after which a senior officer came in to tell me that I was being released. I asked what had happened to my friend who was arrested at the same time, he answered that he was going to be charged and be put away for at least 12 years. This wasn't true. I insisted on having a lift back to Z. On arriving back in my flat I saw that the place was in a terrible mess. A panel had been taken from the front of the grate with soot everywhere. It was impossible to use the bedroom for three days until we were able to finish cleaning it up.*

*I have by now noticed that a great deal of my personal property as well as the property of Cofiwn has been taken from the flat.*

*Of my personal property three diaries, cheque, letters, posters, flag, rucksack, tapes, books, photographs have been taken. Of Coffin's property £400 worth of posters, badges, pamphlets, all types of literature, photographic plates, typewriter and loads of files etc. etc. We have written to the head of police in the North (the one who's responsible for the investigations into the fires) asking for this property back. We thought that it was being kept in W so we went there to enquire. However we received a very cold reception from the duty officer there.*

*The main reason for writing to you is that I am worried about this property. I would be very grateful if you could look into where it is being kept and make an application to the police to bring it all back to the flat. Hoping that you have more luck than I did in this matter.*

*With many thanks beforehand...*



# LEGAL THEORY AND POLICE PRACTICE

We designed the questionnaire to elicit information on major elements of pre-trial police powers which were featured in Operation Fire. The time element was a crucial factor in organising the survey, as the group agreed that the report should appear as soon as possible. This inevitably had implications for our methodology and the content of the final report. No list of people affected by the police operation was readily available; we compiled one by use of social and political networks throughout Wales. On April 3rd (two days after the group had first met) we sent a letter and questionnaire to 45 people whom we knew to have been involved in the police operation (other individuals whose experience we learned of later were contacted with the same material as soon as possible). The correspondence was sent in Welsh or English depending on the first language of the individual, and a spare copy was included in the hope that it would be passed on to others affected if appropriate. No follow-up letters were dispatched, although normal social science survey work would include at least one such letter.

Letters were returned via a sympathetic MP, and were lodged in a solicitor's safe until we began our analysis. On April 30th, the day the report was completed, 43 questionnaires had been returned, although more have still been promised. This figure represents an 82% reponse from the original 52 people surveyed. We consider that the high response rate in such a short time reflects the strong feelings of those we contacted.

We have reproduced two complete reports at the beginning of this section because we are concerned that readers have an opportunity to comprehend more fully the extent of the police operation. Thereafter we examine the state of the law relating to police powers and relate the experiences reported to us.

DETENTION AND ARREST

The law of arrest is a mass of confusion. As Professor de Smith, a leading constitutional lawyer has stated: *'Unfortunately, no branch of English law is more obscure or complex than that relating to powers of arrest'.* In practice the police have wide powers of arrest and because it is most unusual for the citizen to know what those powers are, it is rarely possible to challenge the validity of the arrest at the time. (This is a point which Metropolitan Police Commissioner Sir David McNee covers more broadly in his evidence to the Royal

Commission on Criminal Procedure, which we discuss in the section on patterns of policing).

A general rule of arrest is that police interference with individual liberty must be founded upon some rule of positive law in order to be legitimate. Thus an arrest is prima facie illegal and must be justified under some legal authority (e.g. the Criminal Damage Act 1971); grounds of 'public interest' are inadequate. A police officer must have reasonable grounds of suspicion before arresting. This does not mean that there must be sufficient evidence for a prima facie case. But equally (at least in theory) arrest is not the first or preliminary step in police investigations, nor can it be used as a method of physically detaining an individual while information is obtained.

What constitutes an arrest? The person making an arrest should give the prisoner the reasons for the arrest at the time of the arrest unless the circumstances are such that the person arrested must know the general nature of the alleged offence. In *Christie v Leachinsky* (1947) the House of Lords declared that when a police officer arrests without a warrant on reasonable suspicion he must inform the prisoner of the true grounds for arrest. Precise or technical language need not be used but the prisoner should be told in substance the reason for detention. If this is not done the officer may be liable for false imprisonment.

The present day law of arrest is governed by statute: section 2 of the Criminal Law Act 1967 lays down that a policeman may arrest without warrant where the offence in question is punishable by five years imprisonment. Criminal damage falls within this category, and this was the offence for which most of the respondents to the survey were suspected. Of course arrest is not used simply to bring people to court. As the survey evidence shows, none of the respondents detained or arrested have been charged with criminal damage (which includes arson), yet all were interrogated. Even relatives who were not arrested were questioned in what appears to have been an intelligence operation.

What does 'helping the police with their enquiries' mean? The balance of judicial opinion is that a person who goes to a police station voluntarily in order to answer questions is free to leave until it is made clear to him or her that this is no longer the case. In law there is no halfway house between the liberty of the subject unfettered by restraint and arrest. As soon as a person is restrained or told that s/he will be restrained from leaving, that person is under arrest. Theoretically, if the police cannot demonstrate that there was a reasonable ground for arrest, they are liable for an action for false imprisonment. Thus there is no power to detain for questioning. Lord Justice



Lawton stated in *Lemsatef* in 1977:

> *"It must be clearly understood that neither customs officers nor police officers have any right to detain somebody for the purposes of getting them to help with their enquiries. Police officers either arrest for an offence or they do not detain at all. The law is clear ... There is no such offence as 'helping the police with their enquiries' (sic). This is a phrase which has crept into use largely because of the need of the press to be careful about how they report what has happend when somebody has been arrested but not charged. If the idea is getting around amongst either customs officer or police officers that they can arrest or detain people, as the case may be, for this particular purpose, the sooner they disabuse themselves of that idea the better".*

Lord Justice Lawton may be correct in law, but the reality seems rather more complex, as the survey reports have shown.

Most people were arrested between 4.30 a.m. and 6.00 a.m. on Sunday, March 30th. Others were arrested at work, on the street, at friends' homes. The number of police officers at the point of arrest fluctuated between 4 and 11 (in the latter case to arrest a middle-aged man and his wife at home). From the survey reports we have established that most people were arrested under the Criminal Damage Act 1971 'on suspicion of arson' or 'on suspicion of criminal damage' or ' in connection with the fires at holiday homes'. Some people were told precisely:

> *"A sergeant told me that I was being arrested concerning the causing of damage costing £¾ million to holiday homes"*

or

> *"I was told that I was a terrorist and had caused £250,000 worth of damage to property"*

or

> *"Eventually at the point of arrest (after a three-hour house search) I was told it was to do with holiday homes".*

Others were told but didn't comprehend the significance of the statement:

> *"Arrest was mentioned - no reason given that I can recall, I certainly didn't understand what was happening".*

or

> *"The first words that were spoken as I opened the door at 5.30 a.m. were 'You're under arrest. We want to search the house.' I can't remember if there was any reference to a particular offence".*

Others were definitely not told reasons:

> *"All I could get from them was that 'We've got a search warrant and are looking for anything'".*

or

*"I didn't understand the grounds for the police detaining me"* a lecturer said , and it was clear from his form that he had not been told. Altogether four of the people who sent us information were arrested without a reason being given to them.

Eleven people were 'invited to help the police with enquiries' or 'invited to assist the police at the station'. Those who refused to co-operate were immediately arrested. Of the four who agreed:

*"I was asked to accompany them to the station. When I asked if I was to be asked any questions I was told that the purpose of my going with them was to receive an explanation from their Inspector"* (5½ hours at the police station)

or

*"I was asked 'do you mind coming to the local police station to answer some questions'. I agreed, thinking the sooner I get this over with, the quicker I will be back in bed"* (suspect had only been in bed 1 hour 10 minutes).

The third person was a nursing mother who was taken to the police station for questioning with her 4 month old baby. She was at the station for two hours.

'Invitation' is in practice a form of voluntary detention: once at the police station an individual's power to choose to leave is minimised, although in theory s/he is free to leave. When those who volunteered to accompany the police to the station asked to leave, they were refused:

*"I was told I would not be allowed to go home until my alibi was checked"* (two suspects)

or

*"I asked several times how long I will be here. The only reply I had was that the Inspector was 'coming in' to ask me some questions".*

The nursing mother breast-fed her daughter while at the police station, and felt that police embarassment combined with frequent telephone calls to the station from her solicitor may have speeded her return home (she was detained for two hours, which was a far shorter period than any other person we have heard from).

The manner of arrest also raises some questions: one suspect was detained while shopping with his 9 year old son, who was taken to the police station with his father and then escorted home by the police. Some family members were thoroughly questioned and in some instances humiliated by the nature of the questions, while other families were 'treated as if they were not there' while the search and arrest was made.



The length of detention raises another point. The Magistrates Court Act 1952 section 38 requires that where an adult is taken into custody for a serious offence without a warrant and is detained in custody s/he shall be brought before a magistrates court as soon as practicable. Apart from the interrogation process in detention, which will be covered in a section on questioning below, what happened during that time?

One suspect who was held for three days and eleven hours:

*"I was taken to X police station first of all, then to Y police station by about 5 p.m. on Sunday. I was in Y police station until Tuesday morning when I was taken to X police station. From there the same day I was taken to Z. I was released from Z police station after lunch on Wednesday on bail. The policeman who had taken me up to Z were kind enough to wait for me when they heard that there was a possibility that I would be released. And they brought me back to Y".*

Another suspect who was held for one day and eighteen hours:

*"Taken to X police station, then on to Y police station. Told 'you will be taken from here when they're ready' and eventually taken back to Y police station".*

Another suspect was taken to three police stations during one day and fifteen hours of custody. A friend asked where he would be taken and one of the police officers told him to mind his own business - maybe the police didn't know themselves!

One suspect who was arrested but later released after one day and fourteen hours in custody reported:

*"I was told on Monday morning at X police station that I would be released after dinner. Then I was told it would be about 5.00 p.m. At about that time, two policemen put me in a car and we drove off. The one said he knew the way to Y prison. I was taken to Z police station and locked up for about ten minutes . Then taken back to X. I was locked in a room (not a cell) and told I would be further interviewed. Some time later the door was opened, my cash etc handed back to me and I was told to go home".*

One possible explanation of such frenetic travelling was provided by the suspect himself:

*"After my arrival at X police station I was told from outside my cell that these men are hardened terrorists and would be treated as such".*

## SEARCH AND SEIZURE

The police are not empowered to search unless they can justify their entry onto the property of others by legal authority. In Operation Fire this required the acquisition of appropriate search warrants. The extent of police powers to enter, search and take property is far from clear as the statements indicate in the survey. No doubt many police officers are unaware of the extent of the law relating to search and there is little likelihood that the citizen knows whether a search is legal or not. This uncertainty is likely to act in favour of the police who either are given the benefit of the doubt at the time, or organise their operations to maximise co-operation (i.e. arriving at dawn, using between 5 and 11 officers per raid).

If the police find something in the course of a search which is clearly unrelated to the purpose of the wrrant they have been permitted by case law to seize the item(s) and ultimately offer it as evidence for other charges. Such cases encourage the police to search premises on 'fishing expeditions' (two men were charged with possession of cannabis although the search was related to explosives after the bombs were planted at Cardiff and Shotton Conservative offices: one has subsequently been fined and the other has been told the charge had been dropped).

*"The police took my typewriter, notebook and exam papers that students would be sitting in the summer".*

or

*"A large number of items were removed: all my business papers, many photographs, candles, petrol oil (for chain saw), roll of masking tape, books, jungle knife, all my Cofiwn literature ... shoes, boots, trousers etc. and passport ... I was given no receipt for my property which apart from what was on me at the time is still being held by them".*

or

*"My mother refused permission for them to search the car since I do not drive a car and it is kept in next door's garage".*

or

*"No receipt was given although I was told that I would get one when I asked; and since I could not watch all seven of them I have no way of knowing if anything else was taken".*

or

*"They took away plain and House of Commons unused envelopes, which they believed (wrongly) might have been stolen, a John Bull Printing Set, any pieces of paper with names and addresses on them, a cartoon ..."*



or

*"Plaid Cymru papers were taken, addresses of local members and supporters; anti-nuclear energy statements and facts plus badges; details of Cofiwn AGM, and paper which contained John Jenkins' address, membership forms; papers on the fourth TV channel campaign".*

Warrants are obtained from a Justice of the Peace by laying information usually in a standard form. The police do not have to apply to a magistrate within whose jurisdiction the premises in question are located. The magistrate is not obliged to file the information in court nor keep a record of the warrants granted. The magistrate will not know whether the search has been conducted nor whether it was successful. No records can be kept as to the number of times a property is searched as warrants may come from a number of magistrates.

The magistrate should establish that the search is justified. An information on oath is required, exhibiting enough evidence to enable the standard to be satisfied. The magistrate is under a duty to act judicially and must assess the issue whether reasonable cause has been shown. This process is a safety measure in theory: the need for a search warrant is considered twice, once by the police and then by a magistrate. But the magistrates' role as a safeguard against abuse of police powers would be more effective if their consideration of the information was more stringent. In practice magistrates relate to police officers through their work in the court process, and their scrutiny of a request for a warrant is usually little more than a rubber stamp for search or arrest.

Under section 6(1) of the Criminal Damage Act 1971 a J.P. has power to issue a warrant to search premises of a person who is believed to have under his or her control anything which there is a reasonable cause to believe has been used or is intended for use without lawful excuse to destroy or damage property belonging to another, or to destroy or damage any property in a way which is likely to endanger the life of another. The power of seizure conferred is restrictively drafted, extending only to articles which the constable making the search believes to have been used or to be intended to be used to destroy or damage property in the circumstances forbidden in the section. All offences under this Act are arrestable offences. How closely do these provisions relate to the reality of the police operations,

*"They searched everything in the house, also in the Village Hall, the Village Library, every room in the Hall, and came back in the day to search the safe of the Community Council".*

or

*"Two typewriters were taken, at least three files of papers, one poster, bunch of lamp wicks, tin of weedkiller, a joke newspaper compiled by my daughters ..."*

The warrant specifies that a search may proceed 'if need by force' but only the minimum force necessary should be used. In fact one suspect requested police identification by calling through his front window, but instead of furnishing details the police officers broke down the door; other suspects had floorboards ripped up and a grate pulled out, but no-one stopped to clean up the soot; one household had three locks broken before the suspects were arrested in bed. Another suspect saw a crowbar in a police officer's pocket when a police torch was flashed around his bedroom.

Another suspect reported:

*"One of them said it was possible to make a more detailed search of the house by pulling up the floorboards and arresting my wife".*

or

*"When my son went to the house in X he saw that the back door of the house that I had locked before going with the police to the station had been forced open and there were two policemen in the house searching. He asked them for a warrant. However, the answer he received was that it was in the station if he wanted to see it".*

or

*"When I returned home from work there were three policemen in plain clothes in the garage ... They looked at my son's vehicle ... one of the back tyres was taken away".*

In the last case the husband had been arrested, not the son!

The issue of police officers staying in or re-entering property once suspects have been arrested and taken away is not discussed in any of the standard law books, yet we have been told of several such practices, and quote only one:

*"I understand after I was taken away a uniformed P.C. was left in my house on his own. He answered the phone to my daughter, stated he was the lodger and that my husband and I had gone out early and were not back ... He was also in the house when my brother called - the P.C. offered no explanation and was using the phone at that time. My brother knows we do bed and breakfast and genuinely thought he was the lodger ... During the search of my home one of the officers used my phone without permission to phone his wife to let her know he would be late and enquire about his family. This should be explained".*



Lastly, the police are empowered to retain the property of those bailed under specific legislation (but only within the restrictive provisions detailed above). This would explain why some people have not received their property yet, as their bail notices have not expired. However, most of those arrested were not charged or bailed, and we can only assume that so much personal property has been retained beyond any lawful period because these items are being scrutinised for intelligence purposes (it would seem that the Police National Computer does not always work as fast as advertised!).

On April 28th 1980 Dafydd Wigley asked a Parliamentary Question regarding police requirements to issue receipts for all property taken by them for investigation in relation to suspected offences. The answer of Leon Brittain MP, spokesperson for the Home Office, was that the police will normally give a receipt on request in respect of property seized. His department had recently reviewed this matter in consultation with the Association of Police Officers and it was not persuaded that additional guidance was required. However, individuals found it impossible to monitor the police search as several officers were in various rooms, or because the search of premises continued after the suspects had been removed to a police station. Consequently people were unable to establish accurately what was removed. This matter was not resolved, as with a few exceptions receipts were not provided even when requested:

*"No receipts were given for any material taken even when asked for repeatedly. I have since tried to get some of this property back but without success".*

Other examples are too numerous to quote.

JUDGES' RULES

The code of practice for police powers of detention, questioning and treatment of suspects is embodied in a document called the Judges' Rules, originally drawn up in 1912 and last fully revised in 1964 (Home Office Circular No. 89/1978, HMSO). The Rules tell the police how to question a suspect, the terms in which a suspect shall be cautioned before questioning and before being charged and how to take a statement. A set of Administrative Directions published with the Rules cover record keeping of details of interrogation, 'comfort and refreshment' of the suspect and facilities for the defence. The last item gives the terms in which the suspect should be informed of his/her legal rights and on which a lawyer may be consulted. The Rules are not statutory. In other words, they do not have the force of law.

a) Comfort and refreshment

Most suspects were detained in locked cells except for periods of questioning and travel between police stations. Some were given mattresses, others had wooden benches to sleep on. Bedding provided was generally two blankets in varying states of repair and cleanliness. Some suspects were fed regularly, others reported that they were given two meals in two days. Many suspects were denied drink for long periods, several overnight prisoners received no drink at all. Cells were lit 24 hours per day, but no reading or writing facilities were provided (with one exception where a suspect was allowed to write a letter to his wife on the third day of detention, which he delivered to her personally on his release the next day). Access to toilet facilities was provided under police supervision. In only four cases were suspects treated more humanely, i.e. given aspirin when requested, given frequent drinks, kept in unlocked accommodation or allowed to be accompanied by a relative during some part of their detention.

b) Access to a solicitor/friend/relative

In theory a suspect has always had a right to telephone someone and tell them of their arrest or detention. The Judges' Rules and Administrative Directions provide that every person in custody should be informed of the right to communicate by telephone with a solicitor or friend 'provided that no unreasonable delay or hindrance is caused to the processes of investigation or the administration of justice by his doing so'. As the Rules are not given the force of law they are often ignored with little or no subsequent consequences for the police. For example, the Hon. Sir Henry Fisher found:

> *"The existence of Administrative Direction 7 was unknown to counsel and to senior police officers who gave evidence before me. In the Metropolitan Police District it is not observed."*
> *(Report of the Enquiry into the Death of Maxwell Confait,* HMSO, 1977)



Shortly after the publication of the Fisher Report the Judges' Rules were reprinted and issued to all serving members of the police forces in England and Wales. Earlier in 1972 Michael Zander discovered in a survey in London that 74% of those who asked for a solicitor were denied access. This suggests that the police decision against access operated as the rule rather than the exception, as a 'proviso' might imply.

More recent provision for access to one person outside the police station while in custody is given the force of law in the Criminal Law Act 1977 s62. Section 62 is subject to a similar proviso as the Judges' Rules in that it contains a wide ranging provision which allows the police discretion to refuse access to a solicitor, and secondly it is unenforceable as no sanctions are built into the legislation. Lord Justice Lawton commented in *Lemsatef* in 1977:

> *"If detaining or arresting officers are going to refuse to allow solicitors to advise a man under detention or arrest it is no use their mouthing the words of the Judges' Rules: they must be prepared, if asked, to justify what they are doing."*

Despite the Lawton statement suspects were not told why they were refused such access (with two exceptions). If a suspect is arrested the law demands that a reason be given. If an arrested person is deprived of a right, such as having a friend, relative or solicitor informed of his or her whereabouts, then again the reason for this denial should be given although it is not presently required by the procedure.

One woman who was arrested at 5.45 a.m. on Saunday and detained for 29 hours said:

> *"I was allowed to phone friends that were looking after the children about 11.30 at night. I had been allowed to see the children in the care of friends before going to the police station."*

Another suspect who was detained for 36 hours said:

> *"I was allowed to phone my ex-wife regarding my son's welfare. This was allowed at the police station."*

A suspect who was held for twelve hours said:

> *"My mother said she was coming with me. This was not opposed. My mother stayed in the same room, without any objection...My mother was allowed to take my statement in shorthand."*

Refusals of access or long delays were more common:

> *"I made numerous requests to phone home during the day (Sunday) but I was refused. After I pleaded strongly I was allowed to phone about 10 p.m. in X station with an officer listening in."*
> (Suspect held for 39 hours)

or *"No, I was told "no chance"."*

or *"I requested to contact my wife, not allowed."*

or *"I made many requests, Sunday morning in the station at X. (No calls.) No reason was given."*

or *"In the police station...Asked a number of times to different members of the police. I was told by one member of the police that I was a terrorist and therefore didn't have any rights. The rest said they would look into the thing but nobody was contacted."*
(Suspect held for 52 hours)

or *"A senior officer said that I had no rights and that to them I was guilty until proven innocent."*
(Suspect held for 39 hours)

Problems also arose for relatives, lawyers, friends and/or MPs trying to establish where suspects had been taken:
*"I didn't receive information without phoning five police stations of the whereabouts of my husband."*
(Suspect held for 81 hours)

or *"My mother was told that the fact that I had been arrested had not been recorded by them. My mother attempted to contact the police to find out where I was. However, she didn't find out having tried numerous times."*
(Suspect held for 33 hours)

or *"Police refused to say where I was or even confirm that I was being kept in."*
(Suspect held for 38 hours)

or *"Family not informed and continually refused an answer when they telephoned."*

or *"I asked that my son-in-law be informed. He then said "there's no guarantee that the call will be made" - and it wasn't."*
( Suspect held 12 hours)

or *"We were refused any information and the police denied holding him. My solicitor took this up and was told also by the police they had no knowledge of him and he was not in custody. The only way we established where he was being held was by officially reporting him missing/abducted to X police station. We were then told he was in custody in Z."*
(Suspect held 38 hours. Suspect's wife suffers from serious heart complaint and is crippled, but was held 12 hours)



c) Rights
The Judges' Rules provide that the attention of the individual *'should be drawn to a notice describing the rights and facilities available to him, which should be conspicuously displayed in every police station.'*

*"In the detention room I was shown a notice on the wall informing me of my rights."*

or *"I told them that I was ringing my solicitor before I left home. I did this and said my solicitor would call me at the police station. They said that this was in order."*

or *"I was shown a notice on the wall but I didn't have much time to read it."*

or *"While in police custody I was refused the right to contact a solicitor, friends or family, being told I had no rights, and at one stage a police officer ripped up a piece of paper in front of me on which was written my solicitor's name and address.'*

or *"Nothing was said."*

or *"I was not told by the police what were my rights."*

or *"(A senior officer) said I had no rights and that to them I was guilty until proven innocent."*

or *"One of the police told me to read a leaflet of my rights on the wall but that I wasn't allowed any til the enquiries would be over. I asked many times for the above information but I was told that I didn't have any rights since I was a terrorist."*

or *"I was told before being taken to the police station not to pay any attention to recent articles in the press about infringements of the rights of others arrested before me. I was told that I could be arrested without the police informing anyone of my whereabouts for as long as the police required."*

or *"I was told in X as soon as I arrived that I had no rights. That they had definite proof and that I would be held in a cell for the next 40 years."*

INTERROGATION

Most suspects were detained or arrested and property was searched and seized using the terms of the Criminal Damage Act 1971. This Act covers arson, destroying or damaging property, threats to destroy or damage property and possession of items with intent to destroy or damage property. We need to examine the nature and scope of the questions asked by the police within the framework of their powers to arrest and question under the Act. Were

they investigating a series of specific issues: criminal damage, specifically the burning of second homes? or was the exercise of a more general nature? Were the questions geared to providing general information about political activities of legal parties and organisations in Wales under an umbrella of criminal investigations? Everyone who responded to the survey was asked for political information, e.g.

*"I was asked about the Nationwide second homes programme, about Y Faner Goch social night and the silhouette interview."*

or

*"How would I describe myself politically. Did I agree with Tory party policies, did I think it would be 'nice' to blow them up (the Tories). How many anarchists did I know and would I give them their names."*

or

*"I was questioned continuously about Cofiwn and its members and activities."*

or

*"Most members we have since talked to have said that the police implied Cofiwn involvement in arson attacks and even suggested Cofiwn was a cover for a terrorist organisation. Some members were told that this police action would finish Cofiwn for good...Cofiwn is now in a position where it has been all but suppressed...All this is a sad business for Cofiwn, Wales and democracy."*

or

*"I was questioned about Y Faner Goch, the Welsh Socialist Republican Movement...M.A.C., the 1960s bombing campaign etc... At no time was I questioned about specific arson attacks."*

or

*"I was asked to account for my movements the previous day and evening, and the names of everybody I was with. I was asked to name people in photographs which they found in my flat. I was asked if I spoke Welsh/knew any Welsh speakers. They were especially interested in the organisations I belong to (gleaned from my diary and papers at my flat) and asked a lot about membership/organisation/aims/plans/ politics of organisations/members etc. I was asked a lot (repeatedly by different officers) about my politics/ philosophy, especially re. 'the State' i.e. how far would you go in opposing the State etc."*
(an anarchist suspect)

or

*"I was asked if I knew X and Y? Did I think it was they who were doing the burning? How did I feel about the first fire; was I pleased? Was it time for people like Wigley and Dafydd Elis Thomas to condemn more strongly? Isn't it getting like Ireland?"*

or

*"I didn't name anyone but the people whom I had seen on Thursday night. I was asked what did I think about the arson campaign against second homes? Was I angry with the Conservatives for closing steel plants in Wales? Was I a member of Cymdeithas yr Iaith. Was I in the Keys Club on the night of recording the Nationwide programme?"*



or *"I was asked what was discussed in different meetings of Adfer and Cofiwn."*

or

*"Particularly names of members of Cofiwn. Also what political parties or movements I belonged to? When did I last see X? Why had I written to the Times about Keith Best's letter re X? Why did I have a file of press cuttings about arson?"*
(Keith Best is Tory MP for Anglesey)

or

*"I was asked for names and addresses of anarchists or Welsh nationalists. I was also asked about X."*

or

*"I was asked to account for my movements from 7.00 a.m. Thursday to 9.00 Friday...how well I know W,X,Y, Z (members of the Welsh Socialist Republican party). When I last saw them? What do I personally think of these people? Throughout my 4½ hours I had the impression I was only detained because W had been to the only W.S.R. party meeting I had attended, and had been to my house recently to talk about forming a local branch of Cofiwn."*

or

*"They didn't ask me about my movements, but they were interested in the people I knew. I wasn't questioned much at all. My interviewer X was doing most of the talking, and its purpose was to frighten me."*

A report from a husband and wife who were not arrested, but questioned twice at home and four times at roadblocks:

*"Movements - I was asked on the first visit my whereabouts at specific times...questioned on March 5th if I knew anyone who was involved in the burning of holiday homes and also if I was still a member of Cymdeithas yr Iaith. Questioned also if I was willing to name people to the police if we heard of someone...about our attitudes towards the burnings...my wife was asked why she had gone to Ireland at the time of the International rugby game..."*

We would stress that these statements represent a SAMPLE only of those received. The individual named most often by the police during interviews reported:

*"The police asked detailed questions on ALL the above subjects (movements/names/organisations) and paid particular attention to Cofiwn, the historical and cultural organisation. They stated categorically that Cofiwn was considered to be a front organisation for something more sinister."*

19 members of Cofiwn were questioned, including 12 officers.

The reports above give an impression of the balance of questioning: questions about criminal damage often opened the proceedings but were quickly followed by more detailed sessions on political activ ities and contacts. The best examples we could find of detailed questioning on criminal damage were:

*"I had to give a report concerning my movements over the last four weekends. I had to give full details concerning my movements from Thursday morning (27th March) til Saturday night i.e. during the time a bomb was placed outside the Conservatives' office in Cardiff. I was only asked about two persons, X and Y. No need (to ask whether I knew certain people) they knew everything about me. Also asked my attitude towards burning second homes."*

and

*"I was asked to state my whereabouts at the times of each holiday home fire and I was asked if I knew numerous people..."* (This suspect was also asked about Plaid Cymru, Adfer, Cymdeithas yr Iaith, M.A.C., Cofiwn, Cadwyr Cymru, F.W.A.)

Apart from the content of the questions asked, it is important to establish HOW they were asked. What was the context for such wide-ranging enquiries? Certainly some people reported that they did not feel threatened by their circumstances, and were more concerned for the well-being of relatives than for themselves. But many did feel threatened, and we provide a sample of their circumstances:

*"Subjected to high pressure interrogation i.e. three or four of them firing questions at me at the same time - and hard and soft technique. Having received some training in HM forces in resisting interrogation (because of my job) I was able to recognise the technique."*

or

*"A senior officer in X station stood in front of me holding a folded newspaper containing a report on one aspect of the campaign. "You're a terrorist" he shouted at me and struck me across the face with the paper. I was struck by him afterwards (not very badly) twice on my body. We shouted at each other for a few minutes with myself replying to his comments by calling him a 'Nazi' and a 'thug'."*
(Middle-aged suspect detained for over three days)

or

*"They removed my glasses. Very distressing as I'm short-sighted. Refused to give them back during questioning."*

or

*"Said if I co-operated they would drop the drugs possession charges...when I refused to name people I was told that if they managed to find the tiniest scrap of evidence for conspiracy they would land on me so hard I wouldn't know what had hit me and they would make sure the key was thrown away."*

or

*"I lost my wife and three sons - divorce due to the five months I was in prison waiting for the case (acquitted in Swansea F.W.A. case in 1969). The police knew of my loss, trying to work on my mind, that the same type of thing would happen again. Threatening to arrest my wife and put the small children into care of the local authority. I was threatened about halfway through Monday when the two detectives left my cell to do this - I didn't know where the family was until about 6 o'clock at night and the police said they couldn't find them. By the way the family hadn't been out of the house at all."* (Suspect held 37 hours)



or *"A great deal of emotional pressure throughout. I didn't believe all this could be done to someone. My health is poor and I didn't know what was happening to my husband and family. I have since been prescribed tranquillisers by my GP."*

or

*"At one stage I was grabbed by my shirt and shaken. Struck under the chin by the use of the forearm...as an ex-policeman I have been shocked by the whole procedure followed by the police. During one of the number of interviews I was told that my wife was in a cell and would be treated to the same pressures."*

or

*"Two bright lights were left on in the cell all night although I made a request to turn them off as I couldn't sleep."*

or

*"I was asked only to account for my movements over the previous 24 hours. I was told that this was not a formal statement. Whilst waiting for someone to come and watch me my interrogators - the sergeant and an inspector, questioned me as to my opinions regarding such terrorist acts, by way of conversation."*

or

*"The threat of a detailed search (ie more detailed) of my house, pulling up the floor, wallpaper, arresting my wife and the whole thing to last through the night and early hours, was re-stated. I hadn't had food since midday and I have a history of stomach complaint. Naturally I was concerned about the effect of this on my job, my neighbours and my public work, never mind about my family."*

or

*"I was asked about my movements and my husband's...They were creating suspicions in my mind about my husband all the time."*

What might such 'suspicions' be? Another suspect's wife provided some clue:

*"(My wife) was asked about my men tal state; if I'd had a nervous breakdown at any time, if I was impulsive, if I 'craved to be famous'. She was also asked why we got married as quickly as we did - we met and married in a short time. She was asked if she 'really' knew me and throughout her questioning, felt that the police questions were designed to undermine her confidence in me as a reliable husband. She was also questioned about our sex life. She was told that all 'terrorists' are sexually perverted, and that because I was a terrorist I must be perverted too. She was asked what method of contraception we used and if there were any 'vibrators' around the house or any pornographic literature."*
(Suspect's wife was questioned at home, not arrested)

The same suspect adds:

*"I was offered transport home by one of the detectives who used the opportunity to ask me more questions, including questions concerning my own sex-life and that of some of my friends."*

One final issue which arose during questioning was that of police informers. The 'grass' and 'supergrass' have become a feature of the police campaign to control and solve serious crimes. In exchange for favours criminals inform upon other criminals, but we have two reports of individuals being asked to inform upon people who are accused of no crime, nor are they aware they may be subjected to scrutiny by civilians as agents of the police.

The 'secret police' (yr heddlu cudd) were active at the time of the Investiture of Prince Charles in 1969. Two case histories of *agents provocateurs* are detailed in *Planet (12)* by Dr Phil Williams in 1969. The second case history is of 'Scot' who operated within the student community at Aberystwyth. The student who was invited to 'work for the police' during Operation Fire also lives in Aberystwyth:

> *"Just before leaving the police station, one of the detectives said, "Not that I'm dangling a carrot in front of your nose or anything but have you ever thought of working for the police?" My wife was also asked to "keep your ears open around town and let us know what's going on."*

and

> *"Questioned also if I was willing to name people to the police if we hear of someone."*

Working for the police may simply mean snooping on neighbours and political activists, but if history is to be believed the invitations extended by the police may have had more sinister implications.

BAIL

The police have power to release on bail a person who has been taken into custody for a criminal offence without a warrant. Broadly, these powers fall into two categories: (i) power to bail a person to appear before the justices; and (ii) power to bail a person to appear at a police station. In the second instance, although the purpose of s38 of the Magistrates Courts Act 1952 is to enable the arrested person to be released pending completion of police enquiries, it should not be assumed that any extension of police powers is intended. The police may still only act upon reasonable cause, as defined by law.

During Operation Fire police bail was given in 13 cases, to our knowledge. We have been told that four suspects have been notified that their bail date had been dropped by the police, and in one case a drugs charge unrelated to the search warrant for explosives has also been dropped. The issue of bail and police powers to retain property of suspects is discussed briefly at the end of our section on search and seizure.



IDENTIFIC ATION

a) Fingerprints and photographs

Fingerprints and photographs can only be obtained by one of two methods. The first is with the consent of the individual provided that such consent is given voluntarily and without coercion. Secondly, they can be obtained by the use of statutory authority. This is found in the Magistrates Courts Act 1952 s40 (as amended) which provides that a person over 14 in custody and charged may with the authority of the magistrates court, on the application of an officer not below the rank of Inspector, be ordered that fingerprints and/or photographs be given. There is no power by which the police may compel individuals to give identification simply to build up an information bank. (The Prevention of Terrorism Act provides the only exception to this rule, but does not apply to the three instances reported to us.)

b) Voice prints

Briefly, voiceprint technique rests upon a process of pattern matching and the theory of invariant speech. This assumes that every individual person has an individual speech pattern. However, the Acoustical Society of America has concluded that available results are inadequate to establish the reliability of voice identification by spectograms. Though the courts remain unwilling to use this method for evidential purposes the police seem to find it useful for detection of authors of telephoned messages.

Three instances of physical identification procedures were reported in the survey; in no case has the suspect been charged with a criminal offence during this police operation:

> *"I was not told by the police what were my rights and I was forced to have my fingerprints taken and also to give a record of my voice although I protested. After I gave these I found out that I had the right to refuse."*

or

> *"My fingerprints were taken and my voice taped reading a threatening message. Also I was asked to write out a threatening message concerning the device at X."*

or

> *"My fingerprints were taken and the police still have them. Another campaign from this dawn patrol of the police force will give them the opportunity to fingerprint anyone who is not of the Tory philosophy."*

One further instance of a suspect's car being dusted for fingerprints has been reported.

## POLICE COMPLAINTS PROCEDURE

Is the police complaints procedure fair and just both to the police and the public? The procedure certainly embodies due process safeguards for the police officer concerned, who is given sight of the complainant's statement and an opportunity to respond. What is required of the complainant? The individual must seek out correct information on the procedure, be prepared to go to a police station to register the complaint and be prepared to be personally identified during the complaint procedure (anonymous complaints are not accepted). The complainant must be willing to participate fully in the process, which may involve some financial and social cost. For example, it is known that slum dwellers are less likely to complain than members of the middle class. It is not surprising that those who have been labelled as political deviants through their membership of minority parties or organisations have little or no confidence in a complaints procedure which is initially investigated by the police themselves, and thereafter by a Police Complaints Board which has limited powers.

Cases are referred to the Complaints Board for scrutiny only after the police have completed their investigation of a complaint and after a deputy chief constable has decided whether disciplinary action should be taken against the officer in question. The Board does not have the power to investigate complaints or to impose disciplinary sanctions itself. It can only ask for further information or it can refer the case back to the deputy chief constable with a counter-recommendation for his consideration. The latest figures from the Board show that in 1979 some 14,014 complaints were processed. Complaints received by the police took an average of 158 days to process during 1979; complaints received by the Board from the police after due process took a further 28 days to process on average. The matters of complaint which figure most frequently are assault, irregularity in procedure (including Judges' Rules) and incivility; these totalled over half the complaints. The Board stated that 18 complaints merited disciplinary charges against officers. In five cases the Board's recommendation was acted upon by the appropriate deputy chief constable, and of these three resulted in the police officer being found guilty.

Five individuals reported during the survey that they had made official complaints to the police. Four more are preparing or considering complaints (some with legal advice). The remainder have responded as follows:

a) some don't know how to make a complaint;
b) some have had previous experience of the complaints procedure and are disillusioned;



c) some have no confidence in the procedure;
d) some feel retribution likely (i.e. police harrassment);
e) one said that while on bail he would not want to cause trouble for himself;
f) several think that an independent inquiry should be undertaken.

*"An investigation should be made."*

or

*"I feel this would be difficult considering the existing arrangements for investigating complaints against the police."*

or

*"We should have the right to complain to a totally independent and unbiassed body."*

or

*"Handing it in to the police is just asking for it to be filed and forgotten."*

or

*"It is the police that investigate complaints against the police."*

or

*"There should be an official and public inquiry to go into the way the police have been working before this thing happens too often in Wales."*

or

*"The formal procedure is one I have already used. It is completely biased and I have no confidence whatever in its efficiency regarding the complaints."*

or

*"We do not consider making a formal complaint to be a good idea. It would be likely to cause us more trouble in the future."*

or

*"I don't know anything about the procedure."*
*"I don't know how to make an official complaint."*
*"I don't know enough about how to make a complaint. Very few people do."*

or

*"Despite recent changes I regard it as a farce."*

or

*"I have considered this but I must consider the negative effect which something like this has on my life generally... I am not sure what to do."*

or

*"Today (8/4/80) I'm making an official complaint to the Chief Constable as by now I have insufficient clothing and shoes to change into. If I don't receive my clothes and shoes back by 18/4/80 I intend asking the police to pay for a pair of shoes/jumper and a pair of trousers for me."*

From these responses it cannot be assumed that people feel their complaints are too petty to be taken seriously, or are afraid to have their statements investigated. The tone of the responses seems to reflect a low level of

confidence in the police complaints procedure. The reports suggest strong support for an independent investigation of police actions during Operation Fire. An alternative suggestion might be that a longer-term police monitoring exercise should be established by independent bodies comprising members of the local community. This suggestion would reflect the reality that Operation Fire was not an isolated exercise but part of a wider pattern of policing.



# PATTERNS OF POLICING

## THE SPECIAL BRANCH AND 'SUBVERSION'

> *'Most democracies these days are more vulnerable to internal subversion than external attack. Their governments have a clear duty to prevent the exploitation of the freedom of democracy by those who seek to undermine it. It is essential that the police in a free society should take careful note of overt or clandestine activities which allow even the suspicion of subversion. Far from there being a need to justify a Special Branch, it should be made clear that any government unwilling to establish and maintain one is failing in its duty to protect those freedoms regarded as essential to democracy. Opposition to Special Branches almost always comes from self-appointed political pressure groups whose newsworthiness encourages them to usurp the function of those who are democratically elected to guard and determine our civil liberties'.*
> (Sir Robert Mark, quoted in *State Research Bulletin* No. 10, 1979).

Who do the Special Branch watch? The answer would seem to hinge upon the operational scope of the term 'subversive'. The standard modern definition of this term was given by Lord Denning in his 1963 report on the Profumo case. He said that subversives were people who 'would contemplate the overthrow of government by unlawful means'. Denning's stringent test was abandoned in a rare parliamentary debate on the Special Branch in 1978 when the then Home Secretary, Merlyn Rees, made the first extended parliamentary defence of the Special Branch by a Secretary of State. In the course of his speech he said that subversive activities were those which 'threaten the safety and wellbeing of the State, and are intended to undermine or overthrow parliamentary democracy by political, industrial or violent means'.

Rees's definition replaces the 'overthrow of government' in Denning's definition with a series of much wider and less easily defined objects. These include activities which merely 'threaten' the 'safety or wellbeing' of the State - not just the government, and activities intended not only to overthrow but to 'undermine' parliamentary democracy - again not just the government. The means are extended from Denning's 'unlawful' means to 'political, industrial or violent means'. Rees's definition is reflected in the 1978 Annual Report of the Chief Constable of South Wales which refers to 'terrorist or subversive organisations' in the context of Special Branch work. The significance of this juxtaposition is obvious. As *State Research*

has stated, it conveniently brackets 'terrorism (implying violent means) and subversion (which by the official definition can be taken to include ALL political and trade union activity)'.

PROPOSALS FOR EXTENDED POLICE POWERS

Political policing is indicative of the trend in police work towards general, speculative evidence and intelligence gathering - a trend which would be greatly advanced by the adoption of Sir David McNee's proposals to the Royal Commission on Criminal Procedure, which will report at the end of 1980 or early in 1981. This trend is signalled by the move from the collection of evidence to the collection of intelligence, into the surveillance of sections of the community whose behaviour or very existence is suspicious to a force dominated by right-wing assumptions. As our section on police questioning has shown, the police operation in Wales has concentrated on gathering information of a personal and/or political nature rather than on the resolution of criminal activities. However, a closer study of Sir David McNee's proposals to the Royal Commission in his capacity as Metropolitan Police Commissioner shows not only how present police powers are unofficially extended but also the extent to which civil rights would be reduced if such extended powers as he proposes were given the stamp of legality.

The 'philosophy' behind Sir David McNee's evidence to the Royal Commission is that since the police find it convenient to abuse existing procedures, their actions should be legitimized, for - whatever anyone else is going to rule - this is the way they intend to proceed. NcNee explains that the police have found it necessary 'to use stealth or force illegally' and intend to continue such methods 'to deal with crime' despite the fact that the general public is becoming far more conscious of its rights and more apathetic about its responsibilities'. Indeed, McNee argues that public ignorance of civil rights made such methods of police investigation possible for many years, and his latter argument is borne out by evidence in our survey which shows how little individuals know of their rights in a situation of organised police confrontation, and how ineffectual those theoretical rights can be.

McNee wants restrictions on police powers of search to be lifted, and under his plans once a search warrant for premises was granted the police would be able to seize any property whether or not it related to the offence or putative offence specified in the warrant. He proposes that such a search warrant for evidence could be obtained in the investigation of any type of criminal offence and not merely the present specific list of offences. The survey shows that many personal and household items have been seized as well as items belonging to organisations. Many of these articles are



still held by the police although their connection with criminal damage or explosives is hard to find; none of the owners has been charged. In the case of Cofiwn, the nationalist historical society, all publicity material, administrative papers, cheque books etc. have been held and the organisation's activities have ground to a halt.

The police would get easier access to a person's bank account under McNee's proposals. An officer would have to explain to a magistrate 'the nature of his enquiry, the relevance of the bank accounts in question and the information he hoped to be able to obtain from an inspection'.

Powers of search without warrant in a public place would also be widened. The police would be entitled to look for 'any article which has been or is intended to be used to cause injury to the person or damage to the property' in spite of the notorious breadth of such definitions and the difficulty of proving intention. Police would get the right to search 'if by reason of a person's presence at a particular location an officer believes that such search may assist in the prevention of a serious crime or danger to the public'.

These proposals shift the exercise of police powers to an earlier, less specific and more speculative stage in the process of criminal evidence gathering. Two further proposals in McNee's package particularly emphasise this trend. The first would empower a senior police officer to authorise general road block searches of motor vehicles and their occupants. McNee would give a senior officer this power when he 'considers that the stopping and searching may prove a fruitful source of the discovery or prevention of criminal offences'. At present these powers are vested with a magistrate; the survey has shown that magistrates authorised many searches on questionable grounds.

Secondly, McNee proposes that a senior police officer would be able to apply to a judge to order the compulsory finger- printing of every person or category of person living or working in the area described in such an application'. McNee suggests that the fingerprinting 'would be likely to be of significant assistance to a police investigation into a specific crime or series of crimes involving death or serious bodily harm'. Since the fingerprinting would be compulsory, McNee proposes the creation of a new arrestable criminal offence of failing to comply with such an order. Mass fingerprinting has already been undertaken during the 'Black Panther' investigations, and involved all males in a specific geographical area. Although no criminal offence could be committed by refusing to o-operate, the social pressure on individuals to comply was high. If such a widescale identification procedure were to become

a legitimate exercise the range of crimes for which it might be justified could be extended as easily as the provisions of the Prevention of Terrorism Act have become acceptable 'in the public interest'.

McNee proposes that police power of arrest should be codified and aligned with existing ad hoc and statutory powers of arrest to provide a general power to arrest on reasonable suspicion of the commission of any imprisonable offence. The consequent consistency of powers would be off-set by the possible application of serious police powers at an earlier stage of investigation. As the survey has highlighted, however, the police found no difficulty in arresting or detaining suspects. McNee suggests that this proposal that suspects be taken into the police station favours the suspect as well as the police. 'The suspect is given the opportunity whether in writing or verbally of offering an explanation for his actions or behaviour which give rise to the officer's suspicions or the opportunity of making an admission of guilt' and 'the legitimate questioning of a suspect which is part of the investigation of the offence, is more conveniently carried out at the police station than elsewhere'. However his own tacit admissions of breaches of the rules, which are supported by evidence from our survey about length and manner of detention, beg questions of convenience for whom. Besides, persistent questioning of some of the wives of detainees left at home did not prove difficult for some police officers.

McNee does not propose a power to detain a person merely for questioning, but he does propose to extend the time available for questioning a person who has been detained. At present, an arrested person is supposed to be bailed or brought before a magistrate's court within 24 hours of arrest, or as soon as possible if detained over a weekend. McNee wished to extend the period to 72 hours, with opportunities for further extension of up to 72 hours with the approval of a single magistrate. The justification offered for thisproposal is not only that questioning takes time but also 'the other equally urgent police work that has to be carried on unrelated to that particular investigation'. We would suggest that reasons for such extensions might include time taken to drive suspects long distances from one police station to another, for purposes which are still unclear except that such activities increased the disorientation and isolation felt by detainees.

McNee would like to increase pressures on those detained to talk by weakening the Judges' Rules through the abolition of the existing caution which permits the suspect a right of silence. He proposes that a suspect should be told the reasons why s/he is under suspicion (from our evidence in the survey we would support that part of the proposals!) and that if s/he does not answer the police's questions 'the Court will be



told of your failure to answer and your evidence may be less likely to be believed'. Under such rules the importance of legal advice for a suspect is increased, but McNee's proposals would not extend access to lawyers beyond existing provisions (see section on the Judges' Rules above). The survey shows clearly that 'existing provisions' are in no way adequate if people could be held incommunicado for up to three days and in some cases their family/solicitor/MP were misinformed as to their whereabouts. People literally 'disappeared' throughout Wales during Operation Fire despite continued efforts of interested parties to trace them.

The only form of supervision proposed by McNee in this system of questioning to prevent false admissions or statements is 'action taken by senior officers'. As many people detained during Operation Fire have explained, action by senior officers could best be described as verbally aggressive while others were physically assaulted. Senior station officers often appeared to be controlled by unidentified superiors or by officers detailed to the investigation from outside the area, so that their behaviour towards the particular individual may have been affected by outside influences. Whatever the cause, the behaviour of some senior officers was not consistent with that expected by the Judges' Rules.

McNee recommends no extension or further safeguard to a suspect's existing rights. He supports the Association of Chief Police Officers in their uncompromising statement in evidence to the Royal Commission: *"No further safeguards to the rights of suspects need be given"*. McNee explains at some length that existing disciplinary, civil and criminal procedures offer ample opportunity for the complainant to obtain redress. The Chief Constable of Kent, Mr. Barry Pain, remarked on April 3rd 1980:

> *"Without doubt many people, often advised by solicitors, are making unfounded complaints against police officers as a means of creating red herrings to detract attention from their breach of the law and focus it elsewhere ... (the complaints are) another expensive ploy for ratepayers and yet another factor to inhibit police in the performance of their duty"*.

McNee's proposals have dominated public perception of the work of the Royal Commission. They have strongly influenced the proposals emerging from the rest of the police. They are undoubtedly the most influential set of recommendations received by the Commission, and the most detailed modern manifesto of police intentions in the exercise of their principal task, the enforcement of the criminal law.

CRIMINAL JUSTICE (SCOTLAND) BILL

If McNee's recommendations seem to relate to the future, we are held firmly in the present by the provisions of the Criminal Justice (Scotland) Bill which will almost certainly become law during this session of Parliament. The Bill creates a new concept of 'detention' short of arrest, which would empower the police to detain for up to six hours at a police station or 'other public place' any person they reasonably suspected of committing an offence for which they could be sent to prison (the vast majority of offences). Access to a friend, relative or solicitor during such detention would be at the discretion of the police, who could deny it 'in the interests of investigation'. A detainee would be obliged to give his/her name and address and could be stripped, searched, finger-printed and put on identification parades; but the Bill states that a detainee would not have to answer any other questions and should be told of this by the police. As Richard Kinsey has explained in the *New Statesman* on 29th February:

> *"According to the Thomson Committee, upon whose recommendations these measures are based, reasonable suspicion might be aroused by the 'gait, manner or demeanour' of the suspect, or by 'any knowledge the officer may have of the suspect's character of background'. The effect is to confer a discretionary power upon the police which is without any real limit and which would render the presumption of innocence meaningless".*

Normal procedures following an arrest i.e. a charge and the submission of a report to the procurator fiscal (the independent public prosecutor in Scotland) would not apply in the case of detention. All that would be required is a record of the place of detention, the reasons for it and the time of arrival and departure (or arrest and charge) of the detainee. (This would be a police record and there is no provision for external scrutiny). At the end of the six hours (or before) the detainee would either have to be charged or released. Re-detention on the same grounds would only be allowed on the authority of a magistrate; we have already commented on the role of magistrates during Operation Fire.

A general power would be given to the police to detain on the streets anyone suspected of committing an offence, to ask them for their name and address and an explanation of the circumstances 'which have given rise to the constable's suspicion', and to detain and obtain the name and address of anyone believed to have information about a suspected offence, for example, a possible witness. New offences of refusing to remain with the police or to give one's name and address (or of giving wrong information) would be created. The Bill would also give the police power to stop and search anyone believed to be carrying an offensive weapon and would create new offences of obstructing such a search or of concealing such a weapon.



In the courts, people accused of serious offences and appearing before a jury could be required to submit to a judicial examination before their trial, at which they could be questioned about their defence. If they refused to say anything or there were inconsistencies with testimony given subsequently in court, this could be drawn to the attention of the jury. Jury trials would provide one premptory challenge of potential jurors instead of the present five. An accused could also be excluded from his/her trial on the ground of 'misconduct' and the trial would continue in his/her absence.

PREVENTION OF TERRORISM ACT (1976)

Legal powers for intelligence gathering are well established in the Prevention of Terrorism Act (1976) originally passed as a temporary measure in 1974, which is now renewed annually. Its 'draconian' measures provide that a police constable can arrest a person without a warrant if he reasonably suspects (i) that s/he belongs to or supports a proscribed organisation and/or (ii) that s/he is subject to an exclusion order and/or (iii) that s/he is concerned in the 'commission, preparation or instigation of acts of terrorism' - whether or not these are concerned with Northern Ireland affairs. It is the third category of reasonable suspicion which concerns us most directly.

Once a person has been arrested, s/he can be held by the police for up to 48 hours, that period to be extended for another five days if the Home Secretary so authorises. During this time a suspect does not have to be charged with an offence or taken to court. The Judges' Rules apply under the Act, although the right to remain silent has been undermined by the offence of withholding information. Once the person has been arrested the police are allowed to take any 'reasonably necessary' steps for identification including photographing and fingerprinting. This can be done even if the suspect does not consent, and without a court order. 'Reasonable force' can be used if the suspect does not co-operate. For the first two years of the Act 2,101 people had been held in police custody for periods of up to seven days and each of them were subjected to interrogation and had their fingerprints and photographs taken. Tony Bunyan notes that:

> *"All intelligence on the Irish community in Britain is now centralised in the National Irish Intelligence Unit which is similar to the computerised units set up in 1973 to monitor the immigrant community and suspected drug-takers".*
> *( The Political Police in Britain ,* Quartet, 1977, p292).

*State Research* reported in August 1978:

> *"Since 1974, 125 exclusion orders have been served, 49 of these in the first six months of the law's existence.*

*From the evidence available, it is fairly clear that while some of these people may have been connected with terrorism in some way, many were not. Many were non-violent supporters of Irish Republicanism, whose lawful organisations were emasculated quite deliberately and effectively by exclusion in the first year".*

On March 4th 1980 Parliament renewed the Act for a further twelve months. MPs voted by 115 to 26 in support of the government's motion to renew the law. In a short debate the Home Secretary confirmed that he has finally rejected the abolition of section 11 of the Act, which makes it an offence to withhold information about terrorism. After reviewing the workings of the Act in 1978, Lord Shackleton's report recommended it should be dropped. Figures released by the Home Office at the end of January 1980 showed that another 857 people were detained in Britain in 1979 under the Act. The total number detained under the Act since 1974 amount to 4,524. As many as 89% of this total were neither charged with a criminal offence nor issued with an exclusion order (4,031 out of 4,524). However, in 1979 this proportion dropped lower than in any previous year to 82%. There appear to be two principal types of arrests under the Act: inland arrests which carry a greater likelihood of further charges and port arrests which are essentially an information gathering and monitoring exercise.

It is important to note that the term 'terrorist' does not only apply to Irish people. Several of those detained during Operation Fire were called terrorists by the police, although they were subsequently released.

FUTURE PREDICTIONS

How should we interpret the findings of the survey on Operation Fire? Were the raids an isolated exercise which is best forgotten or perhaps woven into the modern history of Wales? We believe there are strong reasons to think more clearly about the implications of such police operations, and other less spectacular police activities which easily become part of everyday life. Martin Kettle summarises:

*"... the police have been allowed to run their own shows, make their own definitions and operate behind a rhetoric of their own choosing. Whatever they decide to do becomes, by definition, in the interests of 'law and order' and therefore of 'society' too. Whoever opposes them is, equally by definition, 'anti-police' and thus hostile to 'law and order' and therefore hostile to 'society'. Some sections of society are already safely consigned to this camp: demonstrators, pickets, squatters, blacks, gays, feminists, immigrants, the Irish. There is no reason why a free society should put up with this. Unless we recognise the importance of continuing real debate about the police (with the participation of the police, of course) freed from taboos about mixing politics and policing, then the list will grow even longer".*

*(Policing the Police,* Vol. 2, (ed) Peter Hain, John Calder, 1980, p. 59).

We argue that the survey shows the list is already longer. But let the Chief Constable of Lancashire, Albert Laugharne, have the last word:

*"Major police operations, such as those arising from racial and political disutrbances, the pursuit of terrorists and violent criminals - indeed, almost every aspect of modern policing - have shaken out of the policeman's mind any old idea he may have had that he should for historical reasons be part of a flabby organisation. He knows that he will be able to meet many of his new problems only under a cohesive command system which is able to react quickly to changing circumstances. He is realising, too, that the widening of his aims, and the introduction of new police powers, following the exacerbations of modern problems, make it unsafe for him to hold too firmly to the view that he is just, to quote an old saying, 'a person paid to perform, as a matter of duty, acts which if he were so minded he might have done voluntarily'. There is a widening gap between powers of citizens under the criminal law and powers of policemen".*

*(Police,* May 1979).