

Report of the Ombudsman Victoria, Investigation of police action at the World Economic Forum demonstrations September 2000, June 2001

For three days starting September 11 last year, Melbourne played host to the World Economic Forum (WEF) convening at the Crown Casino, while in the surrounding streets, the S11 alliance of protest groups gathered to demonstrate against corporate globalisation. Promoted as 'non-violent direct action' to 'shut down the WEF', S11 rallied people from all walks of life in sufficient thousands to effectively blockade the meeting; the police response was to use very large numbers of ordinary and Force Response Unit (FRU) officers in baton charges and other applications of violent force, rather than arrests, to break the blockade. News images of helmeted police leaning over barricades and striking with their batons against protestors crammed beneath shocked many, and satisfied others. The S11 protest resulted in scores of injuries, generated more than one hundred complaints to the Victorian Ombudsman, and entered the folklore of Australian dissent. The Report of the Victorian Ombudsman is the latest - but not the last - word on police actions at the protest.

Whatever one thinks of its conclusions, the Report is in many ways a valuable, telling document, both for its presentation of what happened at S11 and also what this says about contemporary protest, dissent and public order policing. But it is also a limited document - to an extent necessarily, given the functions of the Ombudsman, but perhaps only to an extent. Aspects of what happened at the barricades remain unreported; important issues raised by the protestors' complaints are not satisfactorily addressed. The style and language of the Report, on the other hand, are admirably clear, and the use of transcripts and witness accounts makes for an often confronting read.

The Report covers police actions at the WEF chronologically, from negotiations before September 11 through each of the identified incidents across the three days of the Forum, and focuses particularly on the use of force by police, the use of batons, the use of horses, and the failure to display identification. The first 'fundamental' issue considered by the Ombudsman, though, is one of general law: whether police may use force to break through an obstruction, rather than their power of arrest, and in particular where those creating the obstruction are not committing an indictable offence. The Ombudsman's answer is yes, they may; but on the grounds that his office does not make determinations of law, he declines to 'embark on a detailed and technical analysis of the law'. The reasoning is dealt with rather quickly: police have a common law duty to prevent a breach or threatened breach of the peace, and may use force to effect this; also there is available a self-help remedy of abatement in cases of obstruction, which may itself create a breach or threatened breach of the peace, and police may use force to assist people exercising their right of entry.

The use of force being reasonably open to police, the question becomes whether in each of the 18 incidents recounted it was justified and proportionate, and the major part of the Report is given to answering this in terms of police strategy and execution over the three days. The Ombudsman's conclusion is again generally yes: police strategies were appropriate, if not always well executed, and the numerous instances of excessive force identified were individual transgressions rather than indicative of culpable flaws in police plans. The Ombudsman flags further investigation of individual misconduct, but will not recommend criminal or disciplinary action against officers involved in devising and implementing the police plan of attack. The Ombudsman is also strongly critical of the widespread failure of police to wear identification, noting this was in direct contravention of directions given by police commanders.

The descriptions of just how productive the preparations were of errors, violence and misconduct would seem, however, to belie the suggestion that there was no 'fatal flaw' in the planning. The police actions clearing and securing the intersection of Queensbridge and Power Streets on 12 September – operations that produced some of the most memorably awful news footage of the protests, first as hundreds of FRU and other officers trampled over seated protestors, and second as police struck at protestors from the barricades – are probably the most recognisable examples. Involving hundreds of police with batons and helmets in a surprise charge through the intersection, shouting 'Move! Move!' and cordoning the dazed protestors from the passage of WEF buses, the manoeuvre was tried three times and went awry twice. After an initial success, the plan's second run went wrong when the charging police were shocked to find the protestors *seated* in the intersection and unable to move, but continued to push through and over the surprised demonstrators. People were 'stomped', 'jumped on', 'trampled', 'stampeded', 'dragged', 'kicked', 'hit' and 'punched' as a 'tidal wave of police... for almost four minutes' rolled over them. On its third go, police neglected to remove the gates at the barricades, causing the 'FRU "freight train"' to come to a halt in a crush of police and protestors and much baton jabbing and striking, before the police broke through the line. The Ombudsman is forthrightly critical of the former incident, but only identifies a number of individual incidents requiring further investigation in the latter. The overall conclusion, though, is that in the planning there was no 'intent, malice, recklessness or incompetence' that warrants disciplinary action. That would be 'scapegoating'.

Perhaps the Ombudsman's frequent references to the likelihood of civil litigation indicate the degree of culpability he thinks is revealed by the pages of protestors' complaints quoted to recreate the incidents at S11. But it means questions go unanswered. The Queensbridge and Powers Streets incidents never involved just holding a line against protestors or physically removing an obstruction: the plan called for the creation of panic. How can that effect be justified in terms of preventing a breach of the peace? How many mere 'instances' of misconduct have to be thrown up before the planning deserves blame: instances such as 'what can only be described as a vicious two-footed jumping-stomp' by an officer on a protestor, or the choking of a protestor, or the running down of a protestor with a police car? What understanding of the situation was being generated in talk amongst police over the three days, such that they would act in these ways – what else came up in conversation amongst officers up and down the barricades when they were advising each other 'better take off your ID'?

The suggestion that the 'paramilitarisation' of policing in Victoria may yield answers is not followed up in the Report: it is an 'interesting analysis', but the Ombudsman is not convinced of its application. This perspective, as recently developed in Jude McCulloch's *Blue Army*, deserved better attention than that. And after starting the Report by citing news reports and editorials condemning the use of force by police in the protests of September 11 - September 11 1970, that is, when police attacked anti-Vietnam War protestors in Melbourne - the Ombudsman then eschews any comparisons with other protests and so cuts off engagement with the longer history and culture of policing protest and disorder. Without that analysis, the viciousness of some of the police actions goes unaccounted for.

It remains for others to put the S11 protests and violence in that context. S11 organisers began doing so immediately after the release of the Ombudsman's Report, staging a presentation of a giant pair of spectacles for the Ombudsman and pressing their point that the police were being let to do the dirty work of the powerful and wealthy. There are, on the other hand, matters raised in the Report that may contradict the claims of protestors to the mantle of Gandhian non-violence, and that cause participants to think about how to organise demonstrations on these lines. Also continuing is the matter anticipated by the Ombudsman of civil actions against Victoria Police: more than 100 claims are currently being prepared, some concerning incidents not identified in the Report. The Ombudsman's Report is part of its record, but also another site in which the S11 protest continues.

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REFERENCES

McCulloch, J (2001) *Blue Army: Paramilitary Policing in Australia*, Melbourne University Press, Melbourne.